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RETIREMENT CREDIT FOR SERVICES RENDERED STATES AND OTHER GOVERNMENT INSTRUMENTALITIES

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON

POST OFFICE AND EMPLOYEE BENEFITS

OF THE

COMMITTEE ON

POST OFFICE AND CIVIL SERVICE

HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

H.R. 2745

A BILL TO ENCOURAGE EARLIER RETIREMENT BY PERMITTING FEDERAL EMPLOYEES TO PURCHASE INTO THE CIVIL SERVICE RETIREMENT SYSTEM BENEFITS UNDULPLICATED IN ANY OTHER RETIREMENT SYSTEM BASED ON EMPLOYMENT IN FEDERAL PROGRAMS OPERATED BY STATE AND LOCAL GOVERNMENTS UNDER FEDERAL FUNDING AND SUPERVISION

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RETIREMENT CREDIT FOR SERVICES RENDERED STATES AND OTHER GOVERNMENT INSTRUMENTALITIES

WEDNESDAY, MARCH 12, 1975

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 9:05 a.m.; in room 219, Cannon House Office Building, Hon. Richard C. White (chairman of the subcommittee) presiding.

OPENING STATEMENT BY CHAIRMAN RICHARD C. WHITE

Mr. WHITE. This subcommittee will come to order.

This subcommittee is convened this morning to begin hearings on H.R. 2745 and further hearings on this bill are scheduled in the same room at 9 a.m. on Wednesday, the 19th of this month.

Now at the time we set this hearing we did not realize that a Democratic caucus would be held at which time the debate is going to be on whether or not to give further aid to Cambodia and Vietnam, so it's a very current issue.

This particular bill today, H.R. 2745, as I understand it, in one form or another has been around Congress for some 20 years and has received a wide range of support. Basically, as I understand it, this will allegedly allow and encourage earlier retirement by certain Federal employees by permitting those Federal employees to purchase into the civil service retirement system based on employment in Federal programs operated by State and local governments under Federal funding and supervision.

Now to begin these hearings today we first hear from Thomas A. Tinsley, Director, Bureau of Retirement, Insurance and Occupational Health, Civil Service Commission.

Mr. Tinsley, if you will resume your seat—you're getting quite familiar with that seat by now.

Mr. TINSLEY. Thank you, Mr. Chairman.

Mrs. SPELLMAN. We just hope you don't think it's the hot seat.

Mr. TINSLEY. Not as yet.

Mr. WHITE. Mr. Tinsley, what we are going to do this morning is adjourn for today at 9:30 and we will go as far as we can, if you would try to address yourself to your remarks within 10 minutes. Again, we don't have prepared testimony. We certainly urge witnesses before

this committee to submit their testimony in advance. I think our hearings would be far more fruitful. In fact, that's the rule and if it persists in our not getting them I'm going to lay out a rule that we won't submit for the record any testimony not given in advance. That's the rule I will have to lay down in order to insist that we get the testimony in advance.

However, if you will proceed, sir.

Mr. TINSLEY. May I go off the record for a minute, Mr. Chairman?

Mr. WHITE. Yes, sir.

[Discussion off the record.]

STATEMENT OF THOMAS A. TINSLEY, DIRECTOR, BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH, U.S. CIVIL SERVICE COMMISSION

Mr. TINSLEY. I thank the committee for the opportunity to appear today to present the views of the Civil Service Commission on this legislation to amend the civil service retirement law.

As the chairman indicated, bills similar to this have been considered by the Congress for at least the past 20 years. Commissions—not just the current Commission but the prior Commissions have been consistent in opposing enactment of legislation of this type.

This bill raises once more an issue that has caused us concern over the years. The issue is the concerted effort to change a fundamental concept of the Government's principal civilian retirement system by giving credit for non-Federal employment. This change would seriously impair the system's usefulness as an integral part of the Government's personnel program.

The Federal retirement system was created and designed to provide retirement benefits for employees of the Federal and District of Columbia Governments. It was designed to provide retirement benefits as postemployment recognition for service to the United States as an employer. Benefits under the law are based on the existence of an employer/employee relationship during a period of actual employment. The system's effectiveness as a personnel management instrument would be seriously lessened by treating service for other employers as if it were Federal service.

In 1955 the 84th Congress approved a bill similar in intent to the one before the committee today. A Presidential veto by President Eisenhower at that time averted action to change the basic employment related concept of the Government's retirement system. No solid facts have ever been developed to permit a reliable estimate of the cost of this legislation. Nonetheless, it is evident that the cost of added Federal annuities accruing from State service credit would average many times the amounts of employee contributions deposited as proposed be required for the State credit. These costs would be borne by the Federal Government, by the taxpayers.

To the extent that this occurred the Federal Government would be assuming retirement costs properly chargeable to the States for which the service was performed and in our judgment improperly using the retirement fund to pay for service not performed in the employ of the United States.

The Commission believes that through existing vesting provisions of the retirement law the United States fully meets its obligations to the individual who chooses it as an employer for only part of his working lifetime. Five years of Federal service vests in the worker a right to annuity at the age of 62 commensurate in amount to the value of the service performed. It is believed that when State retirement plans have adopted vesting provisions comparable to those already in effect under the Federal retirement system much of the State service credit problem will be resolved.

To summarize, the Commission believes that no reasonable basis exists for allowing credit under the civil service retirement system for any past service during which there was not an actual employer/employee relationship between the Federal Government and the individual. This position of opposition is particularly clear where, as it would be the case under this bill, the employment right now is not treated as Federal Employment but is non-Federal employment and would be treated as if it had been Federal employment only after such service has ended and the individual comes into the employ of the Federal service.

The Commission's policy position which is of long standing was underscored and reaffirmed by the Cabinet Committee on Federal staff retirement systems in 1966 which included this specific recommendation: Civil service retirement credits should be granted only for service which meets the clear general criteria presently established for that purpose. Proposals which would broaden those criteria or authorize exceptions to them to credit service performed by State or State instrumentality employees in programs supported wholly or partly by Federal funds should be disapproved.

Each successive administration, whether Democrat or Republican, has adopted this same position. As I indicated earlier, we do not know how many people would be affected by enactment of H.R. 2745; however, the estimated increase in unfunded liability for one person so affected would be \$28,000. If 100,000 people were affected, the estimated increase in unfunded liability would be \$2.8 billion.

Mr. WHITE. Did you say million or billion?

Mr. TINSLEY. Billion. This would be amortized in 30 equal annual installments appropriated by Congress from the general revenues of the Treasury of \$173.5 million. If only 10,000 people were affected, the estimate in unfunded liability would still amount to \$280 million and be paid off in 30 equal annual installments of \$17.3 million each year.

I thank you, Mr. Chairman, for the privilege of appearing this morning and I will be pleased to answer any questions the committee may have.

Mr. WHITE. All right. Considering the time, insofar as we will have to adjourn at 9:30, I'm going to go ahead and suggest to the members that they try to confine themselves to 3 and at the maximum 5 minutes, and we will take you in order of appearance and that includes the chairman. So I presume you both came in at the same time. Mr. Harris, you first.

Mr. HARRIS. It's nice to see you again, Mr. Tinsley.

Mr. TINSLEY. It's getting to be a habit, Mr. Harris.

Mr. HARRIS. I have a feeling you and I are going to be very close.

As I understand it, the situation is that there are three criteria to be considered with regard to this: That the employees, (1) engage in work performing Federal functions under authority of an act of Congress or Executive order; (2) be hired by a Federal officer in his official capacity as such; and (3) work under the supervision/direction of a Federal officer.

Are you saying that the people that would be covered by this act do not meet criteria 2 and 3?

Mr. TINSLEY. They do not meet the appointment criteria. To some extent, they are in a cooperative program, a program which could be considered both Federal and State.

Mr. HARRIS. So it's 2 or 3 you think they would meet, but it's the 1 that's kicking them out?

Mr. TINSLEY. Yes.

Mr. HARRIS. I have a list of about—

Mr. TINSLEY. In some of these programs there's also a question as to whether it's strictly a Federal function.

Mr. HARRIS. I have a list of about 18 categories that are now covered—service performed as employee of the District of Columbia, service performed as an employee of Galludet College, service performed by an alien who was formerly a U.S. employee during a period of employment by a foreign government to protect the interest of the U.S. Government, national guard technicians, U.S. military service, and service in the Pan American Sanitary Bureau.

I agree these 17 or 18 categories should be included but I'm just wondering how do you determine which groups should be included in this respect and which don't.

Mr. TINSLEY. The groups that you just mentioned, Mr. Harris, Congress deemed those individuals to be Federal employees for the purpose of the Retirement Act.

Mr. HARRIS. How do you distinguish these groups?

Mr. TINSLEY. There are many of these groups. I am sure in the testimony at the time these bills were being considered by Congress there were positions—the administration's position or whoever was responsible for the administration of the retirement law consistently opposed bills of this type. Congress, in its wisdom, decided to provide that coverage. They did so by law.

Now let me point out to you one of the differences between what Congress did then and what this bill proposes. Those individuals are covered under the retirement system just as the Federal employees are. This particular group is not going to be covered under the retirement system in the future. This group is only going to be given credit for that particular service that they had prior to entering the Federal service. Those groups now, most of which you mentioned, plus a few others that Congress extended coverage to, are members of the system just as any other Federal employee. This bill does not propose to do that. This bill does not say that we will give all these people who are in any State cooperative programs retirement coverage; that all these people will participate in the retirement system; that all these people will continue just as Federal employees do to contribute 7 percent of their salaries.

Mr. HARRIS. The people in the Pan American Sanitary Bureau are in the system.

Mr. TINSLEY. I believe there are only two people there, Mr. Harris, that were involved at that time. I don't know why Congress was so concerned but I will be glad to review the legislative history and give you the details.

Mr. HARRIS. No. I'm just trying to determine whether this other criteria which you set down as being in the system, whether it does in fact apply to all these categories.

Mr. TINSLEY. I would have to go back and review it. My recollection is that there were only two people involved there.

Mr. HARRIS. They must have had very strong Congressmen.

Mr. TINSLEY. They had a very big lobby.

Mr. HARRIS. I wonder if I might present to you the list of these 18 categories and if you could distinguish them for me as far as the categories which we would cover under this bill. Could you do that?

Mr. TINSLEY. I will try, and those I am unable to do from memory I will be glad to furnish the reply for the record.

Mr. HARRIS. Thank you, very much.

Mr. WHITE. Thank you, Mr. Harris.

Mrs. Spellman, this is your bill, H.R. 2745.

Mr. SPELLMAN. I cannot start as Mr. Harris did, by saying you and I are going to be very close. There's sex discrimination, I can see that. I do find that there are some real areas of discrimination it appears. Two people may be going to college together, taking the same courses together, getting jobs together, working in the same office, working on the same work, but one is under the Federal service and one is being paid by the State or country government, both being paid with Federal funds, and yet there is that difference in the coverage and in the benefits.

There have been, as Mr. Harris pointed out, exceptions made in this program before. What about the Department of Agriculture? Weren't exceptions made there?

Mr. TINSLEY. Yes; the Congress, I believe, extended the coverage to the employees of the country committees of the Conservation Service. Those were by law where they deemed them to be Federal employees. They are now deemed to be Federal employees, those individuals working in those programs, and they are participating fully in the system, making their contributions and whatnot.

The one group that is constantly mentioned and cited in this—and it has been over the 20 years—was the result of the decision by the Commission some years ago. That involved some employees in which, as Mr. Harris earlier pointed out, there was no question about two of the criteria. The question was one of Federal appointment.

The Commission, after having reviewed all the facts, made a determination administratively that they met the three tests of service. This is the only instance I know of where one could allege or one could say that by administrative action something of this nature was done. That decision was made many years ago.

I have within the last 2 years reviewed it. Again, I am not at all sure that the same decision could be made today. However, be that as it may, it was made.

The most recent decision was a court decision involving a somewhat similar set of circumstances.

Mrs. SPELLMAN. It that Pickrell?

Mr. TINSLEY. No; Pickrell was, I believe, the one that involved the administrative decision by the Commission of many years ago. The most recent court decision that I'm aware of is *Stapleton versus Macy*, decided in June of 1962, and I will be glad to submit for the record the synopsis of that decision. The court concluded in that instance that these individuals were not entitled to retirement credit for employment under the Smith-Hughes Act, which is the act that Pickering some years ago was employed under.

Mrs. SPELLMAN. I know that we are running short on time and I do have some material which I will just put into the record.

Mr. WHITE. All right. You have another minute.

Mrs. SPELLMAN. That's all right.

Mr. WHITE. Mr. Beard?

Mr. BEARD. For the record and to save you the trouble of looking it up, I'm a great student on the Pan American Sanitary Bureau and you will be pleased to know that—or not pleased to know—that the two employees involved are both dead now. So this is probably no longer a legitimate point for us to discuss.

Mrs. SPELLMAN. If the gentleman would yield, I might point out that all employees who will be covered under the act will some time be dead.

Mr. BEARD. I'm not going to touch that one.

I am confused and I might ask my colleague or Mr. Tinsley, would you not have an extremely difficult time to interpret the aspect of "conducted in accordance with standards prescribed by Federal law, all or part of which is financed directly or indirectly by Federal funds?" In other words, they're saying an employee of local or State government would be eligible if they had been connected with programs directly or indirectly affected by Federal funds.

Mr. TINSLEY. This would be extremely difficult.

Mr. BEARD. This would affect everybody. There is no one in local or State government that is performing any function that in one way or the other is not affected by Federal funds; is this not correct?

Mr. TINSLEY. I don't have any current figures, but I believe the Treasury Department from time to time produces a list of State and local programs that are financed by Federal funds. The last listing I'm aware of had well over 100 that they were aware of.

Now I am sure that there are also others that they are unaware of, but I think it's correct that today, with the way the Federal Government participates or uses the revenue to place responsibility of programs down into the States, localities, and other places, that it would be extremely difficult. I don't know where this bill could stop. It certainly would not stop with just 15 or 16 groups. You would be down, frankly, to all types of groups and programs. Mrs. Spellman mentioned the inequity. We have had during the past year groups in to see us who were employees of people like Lockheed, Bell. They worked side by side as contract employees with Defense Department personnel. They claim they were under the same supervision and in all probability they were. The day the contract terminated they were hired, many of them, by the Defense Department. They claim they have been doing the same thing since. They think it's very inequitable that they are not getting credit for that service.

I honestly don't know where you would stop once you go in this direction.

Mr. BEARD. Don't you think it would be inequitable, also, to the taxpayers of this country to pay tax dollars into the retirement program for individuals who had not worked for the Federal Government, who were working for local or State government?

Mr. TINSLEY. Yes; and in many instances that money that went down to the State and local level—a part of that money supposedly, in many instances, found its way into the State retirement funds where they did exist. The big problem here is that these States did not provide for short vesting periods. Most of the State vesting periods run much longer than the 5 years mentioned. Many of the States require 15 to 20 years of service before they will give you a retirement benefit. In fact, I'm sure we'd find that some of these individuals, where the States or localities had contributory systems, got their contributions back just as the Federal employee does. So the Federal Government, in many of these instances, has already met its obligation in terms of retirement.

Mr. BEARD. So if we tied it into the bill that we just put out of committee where a man after 5 years of Federal service can retire at 70 and draw Federal retirement—in other words, a guy could have worked for the State of Tennessee for 20 years and retire at 65, be drawing a retirement from the State of Tennessee, and then work for the Federal Government for 5 years and apply that to the Federal Government. There couldn't be a duplication, could there?

Mr. TINSLEY. I believe under this bill it would prohibit duplicate payments for the service.

Mr. BEARD. But after 20 years with the State he could put in 5 years with the Federal Government and then be eligible?

Mr. TINSLEY. Yes; and the chances are under the Federal system that 20 years would be worth a lot more to him.

Mr. BEARD. Thank you.

Mr. WHITE. I'm going to go ahead and take my time now, Mr. Taylor, before everybody scatters.

Mr. Tinsley, in reading the bill, there are a number of categories set up as has been set up in the past, and Mr. Harris read some of them to you. In following some of Mr. Beard's questioning, I wonder if it wouldn't be of advantage if we're going to pass such a bill to have language that would be fair that would cover situations that could test situations rather than categorize, because I can foresee down the line revenue sharing and many other different programs coming into being and people might say, well, I was under a Federal program.

So I'm going to suggest this language orally and we will submit it to you later; it's not inviolate. There can be some changes and so on. I'm considering the possibility of presenting this as an amendment to the bill when the markup period does arrive.

Instead of the categories, say:

A federal-state cooperative program, performing essentially a federal program and function, the benefits of which inure as much to the benefit of the federal government as to the benefit of the state or political subdivision thereof, under duties and working conditions that at the time were similar to the duties and working conditions of a federal employee, the Civil Service Commission shall define those work descriptions and programs eligible for credit for periods of service under this section and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this Act, provided, however, that the regulations shall provide, upon a negative determination by the Commission: (1) for the notice of an adverse decision and (2)

one level of appeal within the Civil Service Commission to be had within 60 days of filing of the complaint by the parties aggrieved which must be filed within 30 days of an adverse decision to the Commission:—

and then it gives you right of appeal and works that out.

In other words, what I'm saying by this amendment, in order for an employee to come into the retirement program of the Federal Government, the benefit must at least be as much for the Federal Government as for the State. In other words, that would eliminate revenue sharing programs which were principally for the benefit of the State or the local government or political subdivision; and, furthermore, the duties must be similar to that performed by a Federal employee.

Now would this be fair? Do you feel that this would eliminate some of the objections that you and Mr. Beard have voiced today in that it would eliminate a good number of the questionable programs like Lockheed and so on that you brought up?

Mr. TINSLEY. Mr. Chairman, certainly some language or something would improve what's being done here. I particularly don't like the listing or names. It leaves a connotation that there's a special group. Once you do it, then another group comes along and says, "Gee, we're the same as theirs," and the next argument you get is an inequity that needs to be corrected. It would not meet this objection, again, if you were only going to consider this service Federal for retirement purposes, only after it had been performed, and not consider it Federal for any other purpose. I would still have objection.

Now if you were going to cover these people, if a decision—a deliberate decision of the Congress was made, recognizing the cost involved, that you were going to cover these individuals under the civil service retirement system, that they were going to participate from this day forward and that somebody was going to pick up the tab for the past, you're talking about something much different than what you're speaking to in this bill.

Mr. WHITE. Now under this proposal, if I may, we're leaving the decision to the Civil Service with the opportunity for appeal in the event that you're wrong, of course. Also, I have a provision or an amendment that would require those who come into the retirement program to pay back interest from the time of the service time they have credited because I can't see the equity of coming in late and not paying for the use of that money during that time.

Mr. TINSLEY. The back interest is negligible in terms of what they pay.

Mr. WHITE. Perhaps, but it's just one of the elements.

All right. I will submit some language to you and let you look it over at your leisure. I think you're right about the categorizing because I think there should be an opportunity to test under a principle; I think it's good to establish a principle on these rather than to categorize.

Now, Mr. Taylor, you have the time, sir.

Mr. TAYLOR. Mr. Chairman, the only question that I might ask is one the staff has here. There have been, Mr. Tinsley, I understand, one or two exceptions. Have there been many exceptions made in the criteria?

Mr. TINSLEY. Not administratively. There have been no exceptions other than the one that was mentioned here, Pickering, going back a number of years. The only exceptions that have been made have been largely made by the Congress and those are the 16, I believe, that Mr. Harris mentioned. The most recent ones are the national guard technicians. These were State employees. In 1968, I believe, Congress, after some years when the technicians were being federalized and they were going to be recognized as Federal employees, gave them credit for past service as technicians if they were on the Federal payroll as a technician, I believe, on January 1, 1969. They said that we would give you credit for that prior State service. They are now fully covered under the retirement system. They can participate the same as anyone else.

However, Congress even then recognized that this was really not Federal service. So rather than being black or white and saying, no, it was not Federal or, yes, it is Federal, they compromised and they said, we will give you 50 percent credit for it; we'll give you the half a loaf. That's the latest group. That group is now seeking—and there are bills currently before Congress—to correct the inequity that Congress created when they gave them 50 percent.

So I agree with you. I think the principle is important. One should be established as to what the coverage is rather than take and specify groups or say, he's half fish and half fowl. You're just going to wind up spending the next 20 years correcting inequities supposedly that were created in this area.

Mr. TAYLOR. Mr. Chairman, I have no further questions.

Mr. WHITE. If we need to call Mr. Tinsley back further, we can.

I thank you very much for your appearance today. You have been most cooperative.

If there's no further business from the committee, this committee stands adjourned on this subject until March 19.

[Whereupon, at 9:35 a.m., the hearing was adjourned.]

RETIREMENT CREDIT FOR SERVICES RENDERED STATES AND OTHER GOVERNMENT INSTRUMENTALITIES

WEDNESDAY, MARCH 19, 1975

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 9:05 a.m., in room 219, Cannon House Office Building, Hon. Richard C. White (chairman of the subcommittee) presiding.

Mr. WHITE. This subcommittee will come to order.

We have convened this morning to consider further H.R. 2745. An additional hearing will be held on this legislation on April 9, at 9 a.m. in this same room.

This bill, H.R. 2745, as I understand it, in one form or the other has been around Congress now for some 20 years and has received a wide range of support. Basically, as I understand it, this bill would allegedly allow and encourage earlier retirement by certain Federal employees to purchase into the civil service retirement system based on employment in Federal programs operated by State and local governments under Federal funding and supervision.

While in this time of great economic austerity I do not believe that this 94th Congress will be inclined to add billions of dollars of unearned benefits to the already existing \$80 billion unfunded liability of the retirement fund, it is my intent, and I am sure that of this subcommittee, to see to it that the Federal civil service employee receives that which he is entitled to by the very virtue of the fact that he has earned it.

To begin this morning, we will hear from Mr. Clyde M. Webber, president of the American Federation of Government Employees, who is accompanied by Mr. Stephen Koczak, research director, and Mr. Carl Sadler, legislative representative.

Mr. SADLER. Mr. Webber is unavoidably not able to be here, and he asked that I make the statement. I am accompanied by Stephen Koczak, our research director.

Mr. WHITE. You may proceed.

(11)

STATEMENT OF CLYDE M. WEBBER, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AS PRESENTED BY CARL SADLER, LEGISLATIVE REPRESENTATIVE

Mr. SADLER. The American Federation of Government Employees, representing over 650,000 Federal employees in exclusive recognition units who perform every kind of service for the Federal Government, has a deep and continuing interest in legislation to provide equitable retirement programs to all career Federal employees.

In our judgment, the very concept of career service involves in itself concepts of equitable retirement. We have been gratified that, in our American democratic system, our country has had the good fortune that national concepts have grown as to what constitutes government service, what constitutes career service, and what constitutes equity.

Our organization, which is a voluntary union based on democratic principles, has always sought to obtain equity for all Federal employees. Thus, we favor the bill currently before you, H.R. 2745, which will open the doors to Federal career employees who have been denied proper retirement credits solely because of antiquated concepts regarding the definition of Federal Government career service.

Certainly, the time has come when government service, especially government service involving cooperation between States, counties, municipalities, and the Federal Government, should be seen, so far as retirement credits go, as one, single area of career interchanges, allowing the Nation to draw freely on the talents and resources of all government employees. In return, of course, the Federal Government must accord these employees career status without petty discrimination as to their eligibility for retirement credits.

We have evidence that these new ideas regarding government career service are being generally accepted today. We have seen this evidence in the Intergovernmental Personnel Act of 1970, which provides for Federal, State, and local government cooperation. That act, Public Law 91-648, incorporates modern career concepts for the utilization and interchange of government personnel between Federal, State, and local governments. It is defective, however, in that it does not contain provisions correcting the inherited misconceptions and inequities of the past, especially in the matter of government service already rendered. This very fine bill, H.R. 2745, corrects this deficiency so far as current career Federal employees are concerned.

THESE EMPLOYEES WERE ENGAGED IN FEDERALLY SPONSORED PROGRAMS

A major substantive reason, in equity, for including these employees in the Federal civil service retirement system is that they have been engaged in functions essentially undistinguishable from those of other Federal employees. These functions include, for example, the control and eradication of diseases; the handling of funds for rural relief; joint Federal-State programs of vocational education and of vocational rehabilitation of persons injured in industry; joint Federal-State health education and information programs, including im-

proving community health and cooperation with, and support of, the Federal public health program; old-age assistance and social security programs, including medical assistance for the aged; public employment service programs; joint Federal-State highway construction projects; wildlife and fish restoration and management programs; Federal-State programs for aid and services to needy families with children; Federal-State cooperation in the administration of unemployment compensation; Federal advances to State unemployment compensation; Federal advances to State unemployment funds; joint Federal-State agricultural marketing research programs; joint programs for the education of Indian children; and a whole series of other activities of the Federal Government in cooperation with States and local communities.

A goodly portion of these programs are carried out by personnel employed directly by the Federal Government; significant, and at some levels the more important portions of these functions are still carried out by personnel employed indirectly by the Federal Government through such arrangements as their employment as "grantees." In fact, there is often absolutely no work distinction or goal distinction in function or task. In other instances, their entering the Federal career system as direct employees is usually through the mechanism of first becoming "grantees." In fact, the "grantee" is, and certainly was, in many instances in the past a local functionary possessing special skills which could be applied primarily in those specific Federal programs, or for the specific Federal agencies or departments which authorized the grants. Thus the "grantees" constituted a major recruiting pool for career employees in these Federal departments and agencies.

H.R. 2745, therefore, is not in any way an effort to extend the career system, including the civil service retirement system, haphazardly and indiscriminately to just anyone who happened to be working on a project for which Federal money was expended. This bill relates to personnel who were intimately and directly involved in Federal programs and, the claim can be made that they should have been employed and could have been employed directly by the Federal Government. In fact, situations have existed in these programs where it was only sheer chance as to whether one employee was hired as a "direct" Federal employee and the other was hired as a "grantee."

For these reasons, we do not see any justification for such an allegation, as the one made by Civil Service Commission Chairman Robert Hampton who stated, in opposition to similar legislation in the past that "the precedent established by enactment of * * * would inevitably generate pressures, and be urged in support of, proposals for extending credit for almost any type of non-Federal service."

Our union, the American Federation of Government Employees, is a staunch defender of the rights of genuine Federal career employees. All of our members are Federal employees. Certainly, we would oppose any measure which would corrupt the career quality of the Federal service and allow unqualified persons to lay claims to the civil service retirement fund.

We reject the argument that these employees are not qualified because we have worked with them, we have seen them recruited directly into the Federal service from "grantee" status, and we know that their careers, as "grantees" and employees, have been professionally one, both in content and in goal.

For this reason, we urgently appeal to you for the earliest passage of H.R. 2745.

Mr. WHITE. How would you define, if you were trying to define, the type of employees that you feel should have the benefit of buying into the Federal Retirement System?

What equities would you suggest would be considered in allowing a particular employee to enter in?

Mr. SADLER. I think the actual intent of the program itself at the time it's instituted would be—

Mr. WHITE. You mean the Federal-State program?

Mr. Sadler [continuing]. Should be considered, yes.

Of course in the past they've always considered the fact that the Government paid more than half of the cost of the program, which would have provided some reasoning for putting these people into this career status.

But it goes somewhat further than that, Mr. Chairman, I think, in that you have to consider the intent of the program, what the program is functioning for.

Mr. WHITE. Now, what do you mean by the "intent"?

Mr. SADLER. Well, whether or not it was being done for the Federal Government, yet handled by the State, would be a good example.

Mr. WHITE. Would you feel it would be as much for the benefit of the Federal Government as it would be for the State?

Mr. SADLER. I would think so, yes.

Mr. WHITE. And do you feel that the function that the employee performs should be similar to the type of function that some other Federal employee performs?

Mr. SADLER. I think basically, Mr. Chairman, what's happened is in some of these programs they may not have started out in the way that I actually mentioned, but they evolved into one that actually put them into the status of a career employee.

Mr. WHITE. Well, now let's take some examples. For instance, suppose you have a State employee that's in the highway system a good percentage—in fact most of the funds for interstate highway systems are Federal funds. But the man is a State employee. Then he later enters the Federal service.

Now, should that particular man be able to enter into the Federal-State cooperative program, and under that program be able to buy into the retirement system?

Mr. SADLER. Steve, I'm going to ask you to answer that.

Mr. KOCZAK. Well, as Mr. Sadler said, it relates really to the Federal interest in the program and the transition of this employee in that category.

I think, if we understood correctly, you're trying to set the characteristics of the kinds of personnel as well as the kinds of programs by which the Congress or the Civil Service Commission, if it's allowed to issue regulations, will clearly define those people who should be covered and who should not be.

One criterion, obviously, is that they should now be Federal employees. They should be qualified already for retirement under the Federal civil service system. The criterion is that they should have had actual Federal service, not counting service at the State level, but service which in the past has been identifiable. Say 5 years.

Then the second criterion is that they have been in a State program which itself, at that time, was an extension of a Federal activity.

As you know, over the last several years the Federal Government has found itself, either by act of Congress or by circumstances, involved in expanding programs requiring Federal-State cooperation. It has initially taken on these additional programs, primarily in the role of financing these programs; at a second stage, the roles of the Federal and State governments become better defined and there's a mobility back and forth. Consequently, there are these people in a grey area.

Not just these people are in a grey area. Temporary employees of the Federal Government are also in a grey area. There are all kinds of other people who are in a grey area.

Mr. WHITE. How would you regard the highway employee?

Mr. KOCZAK. I think to the extent that a person came to the State highway department into a highway function of the Federal Government there's no question about qualifying.

Mr. WHITE. But he's not included in this bill.

Mr. KOCZAK. I would think that unless we were seeking to establish whether he was in a Federal highway program during his State service and subsequently entered the Federal service in that capacity, he's not included in the bill.

But we ourselves would be inclined to think he fits the criterion we're establishing now. Now the Civil Service Commission may say we're wrong, or other people may say that we're wrong.

Mr. WHITE. Now, what about welfare, people handling welfare and administering most of the Federal funds? Would you consider them in that category?

Mr. KOCZAK. We would have to look at the circumstances, and unfortunately it would be useful if this were a cross-examination in the actual situation of the individual involved.

Mr. WHITE. What about a man handling revenue sharing funds for a political subdivision of the State, a State employee?

Mr. KOCZAK. If his function were primarily on the State side—it is obvious we've reached the point where all of us pay Federal taxes and State taxes, et cetera—if his function were primarily the receipt of the Federal funds rather than in dispersal of the State funds—

Mr. WHITE. Well, they have to disperse; they have to allocate funds.

Mr. KOCZAK. Is he allocating exclusively Federal funds, or is he allocating these among other things?

Mr. WHITE. Well, I'm sure that the dimensions of the program are such that they can take an employee and solely place him on dispensing of Federal funds.

Mr. KOCZAK. I would say to the extent that his function relates to Federal funds—and he could be held accountable by the Federal authorities in any way for the dispensing of the Federal funds—he should be eligible. Then he would be covered by the concept that it's a Federal

program primarily generated by the Federal Government to the extent that he cannot be held accountable by the Federal and by the State's authorities.

And I think the line would be that it's incidentally a Federal program and not essentially a Federal program.

Mr. WHITE. Let's take food stamps, the dispensing of food stamps by a State employee, meaning a political subdivision, and could be a county employee.

Mr. KOCZAK. I would think that the dispensing of food stamps probably would not, unless there's a financial accountability if it's merely passing them out.

Mr. WHITE. Doesn't this point up one fact that there is no criteria set out in the bill?

Mr. KOCZAK. That's the problem.

Mr. WHITE. Nor set out in past legislation?

Mr. KOCZAK. That is the problem.

Mr. WHITE. And wouldn't you feel that it would be to the advantage of your membership and the civil service retirement fund to have some criteria by which each individual could be judged, each job description could be judged, as to whether or not they're eligible under this program?

Mr. KOCZAK. Mr. Chairman, I believe that would be a great help to everybody because that's the only way you can clearly distinguish, and I think you might overcome some of the resistance of the Civil Service Commission if it were cleared by criteria.

Mr. WHITE. And I have heard criticism about this particular bill, about "you don't know where it's going to lead," and then some proponents of this bill have said, "Well, we think you've got everybody."

But, see, we've talked about a number of different areas, and we're not really sure we have everybody. We may or may not have, so this thing can go on ad infinitum. You never know whether you've got them or not.

Now, if there were general, describing language placed in this bill in substitution for categorizing or enumerating particular job descriptions, would you think it would be proper to place the adjudication of each particular employee to join this retirement fund in the Civil Service Commission?

Mr. KOCZAK. We would agree and find that useful provided there were some rather clear guidelines. We've had some unfortunate experiences with the Civil Service Commission, and, if I may narrate it—just as an example of why we would like it to be very clear as to what the guidelines are—there was a program of setting up so-called binational centers. This involved primarily the U.S. Information Agency. In this case the U.S. Information Officers were hired by the U.S. Information Agency: They were Federal employees. They were recruited and competed for the jobs they were in. Solely for the interest of the Government they agreed to become binational employees since it was not felt proper that in a foreign country, let's say Argentina or Chile, there should be a so-called house or international house which is run exclusively by an American officer. So, they resigned formally on the record from the U.S. Information Service, but nevertheless were paid by it as in the past. Yet, the U.S. Information Agency argued, and later the Civil Service Commission upheld the argument, that they were not Federal employees during this period for the purposes of retirement.

We brought suit, and the court held that this was absurd, that they had met all the criteria, and it was solely in the interests of the U.S. Government that they had undertaken to give up nominally their U.S. employment while abroad.

Now, for that reason we would very much hope that when you write the guidelines they will be very explicit and clear so that there could be no debate in this area. Then the issue before the Commission would be only whether or not certain categories of persons in fact fall under those criteria.

Mr. WHITE. What you're really suggesting is a clear guideline and a right of appeal to a tribunal with an opportunity to test the decision of the Civil Service Commission.

Mr. KOCZAK. Yes, sir.

Mr. WHITE. All right. Thank you very much for your appearance this morning.

Mr. SADLER. Thank you, Mr. Chairman.

Mr. WHITE. The next witness before the subcommittee is Mr. George Bradley, Executive Director, Organization of Professional Employees, Department of Agriculture, accompanied by Mr. Roy Olson.

STATEMENT OF GEORGE E. BRADLEY, EXECUTIVE DIRECTOR, ORGANIZATION OF PROFESSIONAL EMPLOYEES OF THE U.S. DE- PARTMENT OF AGRICULTURE

Mr. BRADLEY. Mr. Chairman and members of the subcommittee, I am George E. Bradley, Executive Director for the Organization of Professional Employees of the U.S. Department of Agriculture, commonly known and referred to as OPEDA. For the past 45 years, we have worked for and represented the interests of the professional employees in USDA and in agencies transferred out of USDA, such as the Weather Bureau, Fish and Wildlife Service, Food and Drug Administration, and the Environmental Protection Agency.

We appreciate the opportunity to appear this morning in support of legislation that we believe is in the public interest and will provide more justified treatment for a small group of Federal employees, who, at present, cannot obtain any retirement credit for their public service which they performed under certain federally sponsored and federally financed programs.

Since OPEDA stands for equitable treatment for all Federal-professional employees, we have for the past two decades, worked for this type of legislation. Our interest goes back about 25 years when many of our members, professional employees of the U.S. Department of Agriculture, had served their apprenticeship under Federal-State programs, primarily in State agriculture research and vocational agriculture education. The State research workers generally were working on projects financed in total by Federal grants where the basic research project was directed by the Federal Agriculture Research Administration. This ARA direction was designed to coordinate research efforts nationally so as to integrate each segment of each project and avoid wasteful duplicate research and to maximize the research results in the national interest. In order to permit maximum local authority and initiative, the State universities and colleges where most State research efforts were carried out, were given considerable

latitude in selecting and directing the local research workers even though they were paid from Federal funds.

The same concept applied generally to vocational agriculture workers. At that time there were also Federal employees who had worked in county offices on agriculture stabilization and conservation programs. The employees and annuitants now seeking retirement credit for Federal-State service are those that subsequently moved up the career ladder into Federal administrative positions as Federal employees. Generally these were the best and most capable leaders in the field. Some of these Federal employees are being asked to forfeit for full retirement credit their early Federal-State service. Others working in comparable positions have received more favorable consideration and are receiving equitable treatment. For the record we have between 400 and 500 OPEDA members who have Federal-State service who would benefit from this legislation.

Public Law 86-568 brought under Federal civil service retirement all persons employed by county agriculture stabilization and conservation committees. In this case all county ASCS employees have been granted Federal retirement benefits. They are not limited to those who moved up the career ladder to Federal employment. As one example only, that law permitted me to pick up about 1½ years of county office service. I am one of the fortunate persons who has received equitable treatment. Enactment of legislation to provide retirement credit for the type of Federal-State service prescribed in this legislation would extend that equitable treatment to other equally deserving Federal employees.

The Civil Service Commission, by administrative ruling, has granted Federal retirement credit to certain Federal-State employees. I believe NAFSE, in their testimony, will document these cases so I will not repeat them here. The point I wish to establish is that when persons work side by side in comparable positions with comparable pay and comparable responsibilities, under authorities approved by the Congress and on activities in the public interest and financed in whole or in part by the Federal Government, they should be given equal consideration when considering retirement credit. To do otherwise is, in our opinion, rank discrimination.

There is one feature in H.R. 2745 which our organization does not support. That is the early retirement feature which requires that the Federal employee retire within 1 year of enactment or within 1 year of reaching eligibility age and service requirements. We are opposed to this provision since it does not permit the freedom of action that is in the best interest of the employee, his family, his position or his agency and it does not meet our goal of equitable treatment. As soon as the 12 months had passed the person who for some reason could not meet the deadline would be appealing for equitable treatment.

There are several features about this bill which we believe will provide equitability and thus we heartily endorse.

First, all Federal-State service credit will be limited to that service certified as eligible by the head of the executive agency in accordance with the rules and regulations prescribed by the Civil Service Commission.

Second, to establish eligibility an employee must have at least 5 years of creditable Federal service as a Federal employee which is in addition to any Federal-State service credit which may be granted under this bill.

Third, any Federal-State service has not or will not be used to obtain an annuity under any other retirement system including social security. This will prohibit dual or—double dipping—annuities.

Fourth, to establish credit the employee must pay into the retirement fund the total amounts that would have been deducted from all pay, salary or compensation received during the period credit is claimed together with all interest compounded each year in accordance with rates and regulations prescribed by the Civil Service Commission.

Fifth, retirement credit for eligible Federal-State service will also be available for those employees who have retired on a Federal annuity provided they file a request within 1 year of enactment and comply with all other payment requirements.

When we speak of retirees, we should point out that many of the OPEDA members who were active 25 years ago in promoting the concept of retirement credit for Federal-State service are not with us to receive the equitable treatment proposed by this legislation. Many of their survivors have also passed on. Each year many others join their ranks of the missing. For this reason, we must point that time is important. We must act now if we are to provide equitable treatment to those loyal workers who, because of erroneous interpretations of rules and policies, have been denied equitable treatment.

I believe the Intergovernmental Act of 1970 recognized the Federal-State retirement problem and therefore provided for equitable extension and retirement credit for employees involved in Federal-State exchange of work. This will, we believe, alleviate the problems that now face those involved in Federal-State work exchange prior to 1970 who are now seeking equitable treatment under this proposed legislation.

We thank the committee for the opportunity to testify in support of this proposal and urge early and favorable action by the Congress.

Mr. WHITE. Thank you very much, Mr. Bradley.

Mr. Bradley, you have indicated that you feel that someone coming into the system ought to pay interest up to date by your point four. Did I understand your point four correctly?

Mr. BRADLEY. Let me read that again and see:

To establish credit the employee must pay into the retirement fund the total amounts that would have been deducted from all pay, salary or compensation received during the period credit is claimed together with all interest compounded each year in accordance with rates and regulations prescribed by the Civil Service Commission.

Mr. WHITE. So you would suggest an amendment to add that to the bill?

Mr. BRADLEY. Doesn't the bill require that now?

Mr. WHITE. I don't believe it does.

Mr. BRADLEY. Maybe I'm mistaken.

Mr. WHITE. All right. I'm informed that Mrs. Spellman's bill does provide this feature of it.

Mr. BRADLEY. Right. I was speaking to H.R. 2745, Mr. Chairman.

Mr. WHITE. Fine. I have no further questions, Mr. Bradley.

Mrs. Spellman.

Mrs. SPELLMAN. Do you feel as a whole that the bill is too open ended?

Mr. BRADLEY. Not necessarily, no. If there are some sideboards that need to be established, I think we should work with the committee and come up with those sideboards that do provide true equitability and eliminate any discrimination that may presently exist. I feel there's no reason why the bill cannot be improved. I think there are things that can be done to improve it, but the concept is good.

Mrs. SPELLMAN. The idea of it was to provide an equitable theory rather than to spell out each of the groups. And which do you think would be the better way of going about it?

Mr. BRADLEY. I believe we should try to establish a theory. If you need to establish groups, then we need to work through each group to be sure that we are providing equity across the board.

Mr. SPELLMAN. In order to receive credit for service as an employee of the Federal Government today, an individual has to be either engaged in performing Federal functions under the authority of an act of Congress or Executive order; or secondly, hired by a Federal officer in this capacity; or third, working under the supervision and direction of a Federal officer. Now, your group fails to meet which of these provisions?

Mr. BRADLEY. The membership of my organization, I believe, meets all three.

Mrs. SPELLMAN. They meet all provisions?

Mr. BRADLEY. Right.

Mrs. SPELLMAN. Yes. That takes care of that.

We have been told that if we were to enact this, all sorts of pressures would be generated for various groups who would feel that they ought to be able to come in under this bill. Are you aware of a great many such groups?

Mr. BRADLEY. I've heard them discussed, but I'm not aware of them. We have been involved in this legislation for about 25 years.

Mrs. SPELLMAN. I understand.

Mr. BRADLEY. Our organization introduced it initially. We carried it through both Congresses to a veto in the fifties, and we have tried to keep it alive. We started the NAFSE organization, since members of our organization decided that they needed to put more effort behind this, and from there we have moved on.

But the groups that we have been working with, and basically all that I'm familiar with in agriculture, meet this criteria.

Mrs. SPELLMAN. Yes; I know that this has had a long, long history, and frankly this has been a learning process for me. I felt that you ought to have a hearing and an opportunity to present your case.

Mr. BRADLEY. We appreciate it very much.

Mrs. SPELLMAN. Since this was thrown into the hopper, I have been learning a great deal about it, although I've had firsthand experience with working with people in our county who were in no man's land. I thought this was most unfortunate.

Mr. BRADLEY. The thing that hurts us is that we have so many employees that work side by side on the job. One qualifies, and the other does not. Sometimes the person that does not qualify has perhaps more criteria for eligibility than the one that's receiving credit in the retirement fund. We feel that this discrimination should be eliminated if at all possible.

Mrs. SPELLMAN. Thank you.

Mr. WHITE. Let me ask this question while Mr. Taylor is looking at some papers there.

You have stated on the third page of your statement that the point I wish to establish is that when persons work side by side in comparable positions with comparable pay and comparable responsibilities, under authorities approved by the Congress and on activities in the public interest and financed in whole or in part by the Federal Government, they should be given equal consideration when considering retirement credit.

Now, would you recommend to the committee to borrow from your language or similar language that approximates that as the criteria that the Civil Service should use?

Mr. BRADLEY. Mr. Chairman, if we have anything you can use, I'm really happy, sir.

Mr. WHITE. Well, do you think your membership would be satisfied if we said comparable positions with comparable pay and comparable responsibilities?

Mr. BRADLEY. I think so, yes.

Mr. WHITE. Well, that might exclude some of the criteria—rather some of the categories that are listed in the bill. That's why I'm asking.

Mr. BRADLEY. Well, I don't want to introduce another discriminatory factor. If it is discriminatory, I think we ought to analyze it and pull it out.

Mr. WHITE. Well, let me point this out, Mr. Bradley. In talking around with membership, I find that there is some reservation about this bill.

Mr. BRADLEY. Yes.

Mr. WHITE. You know this yourself. You have been fighting it for 25 years.

Mr. BRADLEY. Yes; I'm familiar with it.

Mr. WHITE. If this country had an excess of moneys which they could allocate to various programs, I'm sure you wouldn't have had to be waiting for 25 years. But especially this year we are under a period of austerity when we have a deficiency of money.

Further than that, we find that the retirement system itself is not considered the most healthy because with the automatic cost-of-living increases and so on, there's a real question as to its soundness. That's at least my understanding.

So, we're not here to try to just open the door. We are here to do equity, and that's why I'm saying, do you feel that this language is fair?

Mr. BRADLEY. Yes; I do feel it's fair, and we have been one of the organizations, Mr. Chairman, that worked hard to establish some stability in the retirement fund. I think we were the leaders that proposed that we restore the unfunded liability.

If you remember, at one time the retirement fund was all used by the Federal Government. There was nothing put into the retirement fund. We had accumulated a \$56 billion unfunded liability. In 1969, the Congress corrected that by legislation which we worked hard for and we thought was good.

We would not propose anything that would destroy the retirement fund. As a matter of fact, I think what we're suggesting here is in line of protection of the fund.

Back to the stability of the fund, I listened to Mr. Tinsley and his testimony the other day and Chairman Hampton. I think they both said the retirement fund is sound and it's good; and, if you analyze the figures they presented, we took in a little over \$9 billion and paid out \$4.8 billion in fiscal 1974. And we're putting funds into this retirement fund each year on the basis of the requirements provided for in the law of 1969, and I think the people to be included here will make their contributions as well as the rest of the retirees.

I'm not here to hurt the retirement fund. I think that I'm here to try and establish an equity rapport.

Mr. WHITE. Isn't it true that there's approximately an \$80 billion deficiency in unfunded liability, Mr. Bradley?

Mr. BRADLEY. There's a large unfunded liability, but that unfunded liability results from many things. Free military service; the unfunded liability of funds that were used by the Federal Government and now having to pay interest on them; and other actions that have been taken by the Congress.

Mr. WHITE. I'm not complaining about how, but I'm saying that the fact is it has an unfunded liability.

Mr. BRADLEY. That's a good term to use because the law requires that the unfunded liability be paid in 30 years in equal payments. I think that's good. That makes the system sound, but as of now when you look at the figures, when you analyze the figures that the Commission gave the Committee, we're moving along in good shape. And if those people make their contribution and this fund is used as an investment fund should be used, I'm sure that our retirement fund is taken care of. Congress has taken care of it.

Mr. WHITE. Thank you.

Mr. TAYLOR.

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. Bradley, I may have missed this, and I apologize to you, but how many people would benefit from this?

Mr. BRADLEY. In my organization?

Mr. TAYLOR. Right.

Mr. BRADLEY. I have added up between four and five hundred members of the Organization of Professional Employees, Department of Agriculture, that would benefit. Now, as far as we know and the figures that we have developed—I would rather you get that from NAFSE—but it runs in my mind that it was around 7,000 that would benefit from this type of legislation.

Mr. TAYLOR. Give me an example of who these people are. Again I apologize for being late.

Mr. BRADLEY. That's all right, sir.

Let me confine my comments to those people that are in my organization, the Organization of Professional Employees, Department of Agriculture. That would be basically the agriculture research workers that were working on Federal research projects in State colleges under Federal grants and under the direction of the State colleges and consequently State employees. There would be vocational agriculture teachers who were teaching vocational agriculture and who had gone into educational work in the Department of Agriculture. Basically that's the two broadest examples I can give you. We have some others, but these are the two that have expressed the most interest to me.

Mr. TAYLOR. Well, would this in your view be expansionary? I can visualize that you can be opening up a Pandora's box here. I mean anyone who has ever been funded in any way by Federal money, if they can buy into it, you know you've got about every street sweeper in America.

Mr. BRADLEY. If you analyze the Intergovernmental Act of 1970, I believe that that act provides for protection of retirement credit of individuals that are on exchanges of work. If they're on a State retirement fund, they carry that retirement into their Federal-State service. So, some of these things are already taken care of.

We are not asking for opening up the Federal retirement fund across the board, but we are asking that those people that serve their apprenticeship on Federal-State work which was financed by Federal funds and have moved on up the career ladder and are now in Federal service.

Mr. TAYLOR. Do you have any time you would have in mind to be in Federal service?

Mr. BRADLEY. Five years.

Mr. HARRIS. In other words, if he was a vocational agriculture teacher for 5 years and then moved into Federal service?

Mr. BRADLEY. No. He's got to establish full eligibility for Federal retirement before he can pick up his vocational agriculture work for retirement. Most of these, and as far as I know all that I'm familiar with, move from their Federal-State position rather early in their career. They have lost that period of service for any retirement credit. There's no retirement, and, if there is retirement credit available, this bill would provide that they could not include the State service for additional Federal retirement.

Mr. TAYLOR. In other words, if this particular employee was a vocational agriculture teacher for 4 years, went into Federal service, then in Federal service for 10 years, then he would get his 4 year's credit for the time?

Mr. BRADLEY. Right, if there was no credit for his vocational agriculture service on the Federal-State retirement fund. That's my understanding.

Mr. TAYLOR. Do you have any cost analysis on what this would cost the Government?

Mr. BRADLEY. We had some, but I would rather not muddy the water. The folks behind me were working on that. We had it 5 or 6 years ago. I would rather you ask that cost item of the people who have been working with it daily.

Mr. TAYLOR. I believe that's all.

Mr. WHITE. Thank you, Mr. Taylor.

Mr. Mineta.

Mr. MINETA. I was just wondering how do you make the distinction as far as eligibility for retirement coverage among people like—let's say Model Cities employees who are under a federally funded program administered by local governments, and people such as those whom you represent—some who have come up through the State employee service programs and some of the others who have actually been in federally financed programs which were of benefit to the Federal Government, and were Federal programs to begin with. How do you make a distinction among these employees we don't all of a sudden

end up with a retirement system in which someone says they have some claim because they were on the——

Mr. BRADLEY. I'm not familiar with the model cities program, but let me take a general criteria. I think if there were certain individuals in that State program that had moved up the career ladder into Federal service and served for 5 years in the Federal service and had no credit for what we call apprenticeship work on model cities, I think that group would be entitled to it just the same as we're requesting in this legislation. But how many would move from Model Cities into a Federal job? I don't know.

Mr. MINETA. Well, I just used model cities as an example, an illustration of a Federal grant program.

Mr. BRADLEY. Right.

Mr. MINETA. No other questions.

Mr. WHITE. Thank you very much, Mr. Mineta.

Mr. Bradley, just one last question.

My recollection is that this bill doesn't make any provision that if he doesn't have credit in the sense, that he cannot obtain credit from both the State and Federal employee retirement programs?

Mr. BRADLEY. Right.

Mr. WHITE. Thank you very much, Mr. Bradley.

Mr. WHITE. The next witness is Mr. John McClelland, president, National Association of Retired Federal Employees.

Mr. McCLELLAND. Mr. Chairman, I am John F. McClelland, president of the National Association of Retired Federal Employees, and I have with me today my legislative aide, Miss Judy Park.

Mr. WHITE. You may proceed.

STATEMENT OF JOHN F. McCLELLAND, PRESIDENT, NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES; ACCOMPANIED BY MISS JUDY PARK, LEGISLATIVE AIDE

Mr. McCLELLAND. Mr. Chairman, our association is comprised of 220,000 members, and all are retirees of the Federal or District of Columbia Governments, the spouses, or survivors. I appreciate this opportunity to present our supporting position on H.R. 2745.

NARFE has long supported legislation of this type to permit Federal employees and annuitants who have had employment in federally funded and administered programs operated by State and/or local governments to purchase into the Civil Service Retirement System for such periods of employment. We went on record in support of H.R. 4884 in the 93d Congress and are pleased that this similar legislation was reintroduced this year and scheduled for early hearings.

While H.R. 2745 imposes a number of restrictions insofar as who may benefit by its provisions, we support these restrictions as being equitable to all concerned: the employee and annuitant should be able to receive some retirement credit for work performed in the employment of a State or local government, on a program authorized by act of Congress, administered in accordance with Federal standards, and wholly or partially funded by the Federal Government. H.R. 2745 sets forth these criteria for determining qualified service.

The considered bill's stipulation that the period of State service does not or will not constitute retirement income from any other

source, including social security, would eliminate the oft-voiced fear that enactment of such legislation would open the doors of the civil service retirement fund for employees of hundreds of Federal-State projects. This fear is further diluted by the fact that creditable service is available only to persons who otherwise qualify for civil service retirement, through service other than the Federal-State employment determined creditable as a result of this bill.

One cannot claim that enactment of this legislation would give covered employees or annuitants free or special benefits under the retirement system since they would be required to pay regular retirement deductions along with the specified compound interest, for the creditable service periods, such payment made within a limited time period.

Though we do not have sufficient data to know exactly how many of our retired members of NARFE would benefit from this measure, we would estimate the number to be less than 1,000. This estimate would vary on whether the retiree chose to apply for the additional credit for past, eligible service, whether he could financially see his way clear to make the necessary contribution to the fund for this credit.

We are pleased to note that H.R. 2745, section 2, covers persons already on the retirement rolls at the time of the bill's enactment, under conditions applied to current employees. Too many of the present inequities in the Civil Service Retirement Law exist because bills enacted in the past have not applied to those already retired, and thus serve only to further discriminate against those who faithfully served their Government in the past. We are satisfied that this bill in its present form would not add to the long list of inequities.

I trust that in the near future this subcommittee will issue a strong, favorable report on H.R. 2745 so that the full committee and the House will be able to register their feelings on its provisions at an early date. We especially urge that the provisions of section 2, concerning those already on the retirement rolls, be retained in the final version of the bill.

Thank you for this opportunity to present our association's views in favor of H.R. 2745.

Mr. WHITE. Thank you very much, Mr. McClelland.

Now, Mr. McClelland, let's talk about theory for a second because that's what we have to do when we talk about legislation.

Mr. McCLELLAND. All right.

Mr. WHITE. What would you regard as the proper theory or philosophy behind any type of bill or any program of this nature? And I'll give you a few suggestions or ideas, and let's test them.

Would you say the theory behind such a bill is to help reward and take care of those who have served the Federal Government, or would you say it's to take care of those who have served the State and local governments?

Mr. McCLELLAND. I would say the State and Federal Government, because we point out we are talking about those people who work on projects that are financed by the Federal Government and authorized by an act of Congress or an Executive order.

Mr. WHITE. Do you regard that as sufficient, because you know there's a plethora of Federal legislation today that's financed by the Federal Government, enacted by the Congress of the United States

and signed by the President. I can scarcely think of a program today that doesn't have some Federal funds in it, whether it be a grant to a State college, which is a political subdivision that might come under this, whether it's research over the years, whether it be a welfare program, or model cities program, or Federal revenue sharing program, or school educational funds program; you just name it. They all fit your criteria.

Mr. McCLELLAND. Well, I say the criteria of the bill is what we spoke of, and I feel that the bill has safeguards to these areas that you've just mentioned.

I might point out to you something that is very unusual on my research on this matter. I find back in the thirties and days of the Civilian Conservation Corps that certain people were certified by the U.S. Army as being—having credited Government service up until 1940. And anyone who is not certified did not get credit for that service if he later became a civil service employee. So, there's discrimination in an area there.

Also in the WPA projects the administrators and top echelon of bosses was covered under Civil service retirement, whereas a worker was considered on welfare, and he was not covered.

Mr. WHITE. Well, I think you can make some distinctions. I'm talking about the criteria set out in your testimony. Let's go back to the subject of benefit.

Now, what percentage of benefit would you think should be the basis for allowing civil service employees to reach back and take in their State term or State service?

Mr. McCLELLAND. Well, again I think we've seen a perfect example in that agriculture extension, and it was paid for by the Federal Government, and it is administered strictly by States and even counties.

Mr. WHITE. Now, you're begging the issue. What percentage do you think should be performed for the benefit of the Federal Government?

Mr. McCLELLAND. I would think more than one-half should certainly be performed for the benefit of the Federal Government.

Mr. WHITE. Now, how would you define benefit for the Federal Government?

Mr. McCLELLAND. Well, I think we would have to look at each particular program to define it.

Mr. WHITE. We can't do that. We've got to set out a criterion in the bill unless we're going to categorize or unless we're not going to pass the bill.

Mr. McCLELLAND. Well, I think it would be hard to establish this without looking at each particular program as to whether it was—

Mr. WHITE. See, we have been talking and the previous witnesses have talked about a theory, a standard by which each job description could be judged. And now I'm asking you in terms of benefit, in terms of a criteria, how would you define benefit to the Federal Government?

Mr. McCLELLAND. Well, I think you would have to say that a person is performing duties that have been outlined and authorized by an act of Congress, as I said, or an Executive order to perform these duties that are beneficial to the Federal Government, and practically every one of these programs—

Mr. WHITE. Would you say Federal revenue sharing is to the benefit of the Federal Government?

Mr. McCLELLAND. My understanding is in Federal revenue sharing once the money gets back to the State, it's State funds.

Mr. WHITE. What about food stamps?

Mr. McCLELLAND. Food stamps again I think would fall under a category that the actual administration of the program could be considered as a Federal service under what we have seen in the past.

Mr. WHITE. But that's not included in the bill.

Mr. McCLELLAND. But that's not included in the bill.

Mr. WHITE. So next year we have another group come in and say we're under food stamps, and therefore we ought to be in it.

Mr. McCLELLAND. That's right.

Mr. WHITE. What about the administration of the highway program in each State? Is that Federal service? Would you regard that as proper category?

Mr. McCLELLAND. It would appear to me that each State operates its own highway program and that it would not be Federal service.

Mr. WHITE. Suppose he's administering for the Federal-State highway system.

Mr. McCLELLAND. He's still tied into the State to a great extent.

Mr. WHITE. Fine. Are there any questions—Mr. Harris?

Mr. HARRIS. No.

Mr. WHITE. Are there any other questions at all of this witness?

Mr. MINETA. Just one question, Mr. Chairman.

Mr. McClelland, on page 2 of your testimony you indicate that you would estimate that this bill would benefit roughly 1,000 members of NARFE. I'm just wondering whether or not one of the problems related to this measure, a problem which has come up before, would be the difficulty of determining the number of people involved, and consequently the costs of such extension of retirement eligibility.

Mr. McCLELLAND. We say less than a thousand.

Mr. MINETA. Is that figure representative of current employees or does it include the number of people who might potentially have benefitted?

Mr. McCLELLAND. It's hard to tell, and of course a number of these people are retired. I might also point out they retired on low annuities, and they're not going to feel financially able to buy into the fund. A number of the people would not even bother to try to qualify.

Mr. MINETA. Thank you, Mr. Chairman.

Mr. WHITE. Mrs. Spellman.

Mrs. SPELLMAN. I've been advised that the original bill, H.R. 4884, started with about 7,000 eligible people, and that by the time the hearings had ended about 19,000 people seemed to be covered. Now they say: "There is no end in sight."

Do you feel that this bill would also create that kind of deluge?

Mr. McCLELLAND. I personally feel it would not. If we start talking about every program, just as the chairman asked me a while ago, all these programs, then we could get into a big number. But there's no question in my mind under the criteria set up under the bill that a lot of the areas would not be covered.

Mrs. SPELLMAN. I personally feel there should be some way that we can help these folks. There ought to be some way of giving credit for service performed, and yet as I hear the questions being asked by

the chairman, it certainly shows the problems we have in trying to set forth some kind of criteria that would do justice to all sides. I think we're going to need some help on that.

The model cities problem, that's the one that Mr. Mineta raises, is the one that I'm familiar with where these people were working under the programs set forth by the Federal Government. Were they working for the Government? Were they working for the community? Should they be covered? Should they not be covered? There are some real questions there which need to be solved, and how to go about it. Since I'm brand new here, I have a reason for saying I don't know how to do it.

Mr. HARRIS. Mr. Chairman, I wonder if Mrs. Spellman would yield on that.

Mrs. SPELLMAN. Yes.

Mr. HARRIS. When we get into this type of discussion, I, myself, have a little feeling that we're dealing with a little bit of bureaucratice. We say, well now, what is the dividing line exactly, and precisely is this a worker under Federal supervision, or to what percentage is he, or what have you. This is the part that bothers me. When we start getting into these other examples, I'm not certain, but I'm fairly certain that we're talking about people who are already covered in the retirement program. For the most part you're talking about that State employee that has Federal responsibility, other responsibilities of the Federal program, that is already covered under a State retirement program.

But we're really talking about trying to correct a little bit of inequity to those people that are not covered by a State retirement program, who were in fact participating in a Federal-cooperative type of a program and were not covered by any retirement program in that period. You're talking about people that say in order to make sure that that time applies toward my retirement I'm willing to pay in and buy back that time into my retirement program. And this seems to me to be the distinction in my mind.

Mrs. SPELLMAN. That's the way I see it, too. When you're talking about these people, they were not in State retirement programs and not considered to be State employees. They're considered to be working on a Federal program, so that it seems to me that that criteria which you set forth is one that makes sense.

Mr. McCLELLAND. Well, my understanding of the bill is there's a safeguard there that you cannot claim State retirement and also claim Federal service retirement, or social security either. If you claim credit for civil service retirement, you lost those credits.

Mrs. SPELLMAN. Does it say that if you were at the time covered by the State or social security that you would not be eligible? That might be one way of taking care of the program we're talking about so that there would be no switching. If you were not covered by virtue of the fact that the State felt that you were not one of their own employees, then that would mean you were not covered?

Miss PARK. Not that you were choosing your coverage, but you were eligible for that coverage. You got a choice of coverage.

Mr. WHITE. All right. Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. McClelland, I think that most of the members of this subcommittee are sympathetic with what you're trying to do, and I think

we're sympathetic with the people you represent. However, this is a very complex thing, and it has in my opinion many, many tentacles that reach out. It's going to take very definitive language to allay the fears that will be opening up that Pandora's box.

To me it's vague when we say the employment of State or local government on any program authorized by an act of Congress, administered in accordance with the Federal standards, and wholly or partially funded by the Federal Government. Heavens, we're talking about a world of people that are out there with the expansionary road of the Federal Government where they're involved in urban renewal programs, model cities programs, and every kind of conceivable program in the world, and there's more every day.

So, I think it is important, if we give any serious consideration to this bill, that we have very, very definitive language in order that we do not open up the Pandora's box, because I think as it's written it does. And I think it would not be an interest of your organization and your employees to continually pour water into the soup until your fund was completely dissipated, diluted.

Mr. McClelland. Well, we have no intentions to dilute the fund in order to damage the fund. After all, we have a great interest in this fund.

Mr. TAYLOR. Well, I would think so, but, you know, it's inconceivable to me that anybody wouldn't buy into it. Well, it would take a complete idiot not to—I mean not to buy into this fund for what they're going to have to put into it and pay it, because it would be what; 2 years?

Mr. McCLELLAND. Some of these people have already retired, and, as I mentioned, a number of them are on low annuities, and they feel they can just not afford to take anything of this kind. As a matter of fact, you find a number of these people that retired back say in the fifties at least that could not even see their way clear to take a reduced annuity to cover their spouse. And this is the way they feel, that they need every nickle they have to live on, that they just couldn't afford to dig back and pay up this amount.

Mr. TAYLOR. But the potential of what you're going to receive is so much greater than what they're going to pay in. They would certainly make some arrangements to buy in.

Mr. McCLELLAND. It's not necessarily that way, Mr. Congressman, because maybe they had a year or 2 years service and would add very little to their annuity. So, therefore, they would not bother with it.

Mr. TAYLOR. Would you envision that people who are working now for Penn Central government would qualify for this program?

Mr. McCLELLAND. I would certainly say they would not.

Mr. TAYLOR. By what language in the bill would they not?

Mr. McCLELLAND. They're not even State employees. They're operating under a private corporation even though it's being subsidized by the Federal Government.

Mr. TAYLOR. But you would envision that anyone who is working the model cities—and I come from a relatively rural district, and I live in the town of Springfield, Mo., a town of 120,000 people, and in that city alone there's somewhere between 75 and 80 people working in the model cities program for local government with moneys that come directly from the Federal Government. And as soon as the model cities program is completed, then they could buy into Federal service,

and they could buy in for the time that they have been in there; right, under this bill?

Mr. McCLELLAND. They would have to become Federal employees.

Mr. TAYLOR. That's right.

Mr. McCLELLAND. Yes. To qualify a person must have 5 years of Federal service credited under civil service to even consider—

Mr. TAYLOR. Now, some of them have been there 8 or 10 years, and they have been working in the model cities program in Springfield, Mo., during this period, and they would get credit if they wanted to buy in if they went into Federal service, and they could buy in for this period of time.

And I'm not trying to be critical, but I'm wondering if what we're doing here—as I say I'm not diabolically opposed to what you're doing here, and I do have some people in my district that will benefit by this program—but I do wonder if we're not biting too much off here. It's your fund. It's your people that put the money in there.

Mr. McCLELLAND. Of course to get back to what you're talking about now, these people under the model cities, whether they're covered under another retirement system—

Mr. TAYLOR. They are.

Mr. McCLELLAND. If they're not covered, this bill provides the dual coverage.

Mr. TAYLOR. The bill does provide—

Mr. McCLELLAND. That's right. It's considered bill stipulation that the period of State service does not or will not constitute retirement income from any other source, including social security. Maybe there should be some strengthening language there.

Mr. TAYLOR. That's if he is not getting an annuity.

Mr. McCLELLAND. If he's not able to draw any annuity under the time that he spent.

Mr. TAYLOR. Under this legislation would the State service continue to be reviewed as such while so employed or only when completed.

Mr. McCLELLAND. Say that again, Mr. Congressman.

Mr. TAYLOR. Under this legislation would not State service continue to be reviewed as such while so employed and reviewed as Federal only when it was completed? Do I make myself clear?

Mr. McCLELLAND. I'm not really sure just what you're getting at.

Mr. WHITE. When a project is completed.

Mr. McCLELLAND. When a project is completed, but it won't come into place as long as he's employed there. He still has to get a civil service status.

Mr. WHITE. As I understand your question, I think that probably there are some programs where the project is never completed, and it's just a continuous type of program, and I suppose under this bill in those categories that are listed, as long as the man is putting his time in those programs, then he would become eligible on having his 5 years of being a Federal employee and to buy back in for that time.

Mr. TAYLOR. Well, I know, Mr. Chairman, if you yield.

And Mr. McClelland, you know there's a lot of these people that you address yourself to; for example, the agriculture teachers and the Smith-Hughes Act. And I know these are people, and a lot of them have been into the Federal agriculture and so forth, and I suppose they had some prior buildup under the school system. They were working under whatever State they were in.

If I might address a question to Mr. Bradley there.

If a person is a vocational agriculture teacher in the State of Missouri, for example, he does come under the teacher retirement law if they had one. Now, he transfers that over; is that right?

Mr. BRADLEY. Most of the vocational agriculture teachers that I'm familiar with lost their retirement fund. They left their State service and went into Federal service. On some of them the fund is paid back; and others, they didn't have any. If he does have a retirement fund and he's eligible for State retirement, this bill would deny—if he takes that for credit, that would deny him credit for Federal service. You would have to drop his State retirement service, but most of them have no retirement for that period they served. They have lost that from the standpoint of retirement.

Mr. TAYLOR. Most of them probably took their money.

Mr. BRADLEY. Most of them.

Mr. TAYLOR. That's all.

Mr. WHITE. There being no further questions, then this meeting is adjourned and will reconvene for the purpose of hearing on this bill on April 9.

[Whereupon, at 10:05 a.m., the hearing was adjourned.]

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

STATEMENT OF HON. GLADYS NOON SPELLMAN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MARYLAND

Mr. Chairman, I have introduced H.R. 2745 to allow the important issue which it concerns to be fully aired before this subcommittee. While I realize that the proposal has previously been in the preliminary stages of consideration before this subcommittee, I was advised that further consideration was necessary for a full hearing on the issue. This legislation was originally proposed and continues to be by the National Association of Federal-State Employees. I believe that my introduction of the bill offers the members of the association the opportunity to have their views heard. I introduced it for that purpose.

H.R. 2745 seeks to encourage earlier retirement of present Federal employees by permitting these employees to purchase into the Federal Civil Service Retirement System benefits based on their previous service in Federal-State cooperative programs operated by State and local governments under Federal funding and supervision. These benefits are unduplicated in any other retirement system. The bill would not extend Civil Service Retirement benefits to employees of these Federal-State cooperative programs. All that is sought is the right of individuals after five years of Federal service to secure credit toward Federal retirement for service formerly not otherwise credited. This legislation could go a long way toward giving all government civil servants the same protections and rights that an individual in private industry would ordinarily have.

In any typical Federal-State cooperative program, the top officials are Federal employees in a Federal department. In many cases the senior officials at the State level are also Federal employees.

However, there are lower echelon employees at the State or county level who are on a State payroll. As a result, discriminatory anomalies may exist. In some of these programs persons work side by side, doing the same work, but some of them are on the Federal payroll, and thus receive retirement credit for their work, while others are on the payroll of the county or State, although financed by Federal funds, and do not receive credit for their service. Two persons may go to a college together, and acquire identical degrees in a particular field, and then go to work in a Federal-State cooperative program in that field, in the same office and doing the same work, but one may be placed directly on the Federal payroll, and the other on a State payroll, financed by Federal funds. As a result, one of them will earn creditable service for Federal retirements and the other will not.

The bill would end this long standing discriminatory practice and help make a significant contribution toward implementing the goal of equitable transferability of needed personnel between various levels of government.

In order to qualify for Federal Civil Service Retirement under this bill, an employee would: (1) have to have been employed in a qualifying Federal State cooperative program; (2) have at least five years in the Federal Service under Civil service requirements subsequent to the qualifying Federal-State employment; and (3) have paid the Federal retirement withholding into the Federal Civil Service Retirement Fund, plus interest, for those years the employee was under a qualifying Federal-State program.

This legislation it seems is not a largesse in that it would affect, I am advised, only about 7,000 current Federal employees who have worked in Federally funded and supervised jobs, but were not able to earn Federal civil service retirement credit. These workers include some employees of the Departments of Agriculture, Transportation, Health, Education and Welfare, Interior, Labor and the Agency for International Development and in a number of other Federal Departments and independent agencies.

According to recent figures released by the Civil Service Commission, I am advised, the yearly cost of this legislation including the actuarial, or funded liability is not significant considering the entire Civil Service retirement operation. The added cost, if, and if emphasize the word if, the entire 7,000 Federal-State employees decided to buy into the Federal Civil Service Retirement System would be only about two tenths of one percent of the current expense of the fund or about \$7 million dollars a year.

The inclusion of these Federal-State employees it appears is not unique or without precedent. In 1938, the Civil Service Commission took action in granting retirement rights to thirteen thousand county and State employees working in Federally funded programs. In 1960, Congress brought approximately fourteen thousand county agricultural and stabilization service employees into the system. In 1969, forty thousand National Guard technicians were brought into the system. Therefore, the inclusion of about 7,000 Federal-State employees who work in these remaining Federally funded and supervised programs with jobs similar to those other workers who have already been included would correct an injustice.

The trend is definitely toward such transferability of retirement rights to the Federal Civil Service Retirement System. Indeed, I am advised, that several State retirement plans have gone so far as to give credit in their retirement programs for Federal Service. I hope that the Members of the Subcommittee can join me in examining the question of whether or not this bill can best solve the problems I have described.

STATEMENT OF JOHN A. MCCART, EXECUTIVE DIRECTOR, PUBLIC EMPLOYEE DEPARTMENT AFL-CIO

Mr. Chairman and members of the subcommittee, I am John A. McCart, Executive Director of the Public Employee Department, AFL-CIO.

The Department is a new component of the AFL-CIO. Twenty-eight unions representing workers in state and local governments, the federal service and the postal service are affiliated with it.

We extend our appreciation to you, Mr. Chairman, for arranging this hearing and to Representative Gladys M. Spellman for sponsoring the pending bill.

The Department believes that it is equitable to extend coverage of the Civil Service Retirement Act to current federal employees who worked previously on major programs financed entirely or partially through federal funds. Examples of the types of previous employment to be covered include: rural rehabilitation, agricultural experiment station employment, vocational education, agricultural extension work, forest and watershed protection, and plant pest and animal disease control.

Under the bill, retirement benefits for this earlier service would be contingent on current federal employment. In addition, the individuals involved must have been assigned to programs, which are basically federal in nature.

Many of these state projects are extensions of federal service, and provide a source of trained and experienced personnel, who later move to federal agencies.

On July 1, 1960 (Public Law 86-568), Congress recognized the validity of extending retirement coverage under similar circumstances when it authorized application of the Federal Civil Service plan to former employees of the soil conservation and domestic allotment services.

Existing laws permit District of Columbia school teachers to receive credit for teaching service outside the District. Certain employees of the Departments of Agriculture and Labor, who served as \$1-a-year appointees, may acquire Civil Service retirement benefits. Other state and county workers of the Agricultural

Extension Service are entitled to federal retirement credit by U.S. Civil Service Commission decision.

Moreover, the merit of this legislation was endorsed by the House and Senate when Congress approved a similar bill in 1955.

Ample safeguards are provided in H.R. 2745 to protect the present federal retirement system. To qualify, the employees in question must have served at least five (5) years in covered federal positions. The performance of service in the federally-financed program would have to be certified by the head of the agency. The employee would have to pay into the federal system the retirement deductions due, with interest, just as if he or she had been a federal worker during the period involved. The annuity benefits accruing from crediting the state service will not be used to provide credit under any other retirement system.

In recent years, there has been increasing emphasis on improving relations among the various governmental jurisdictions—federal, state, and local. Congress approved creation of an Advisory Commission on Inter-governmental Relations in 1959.

The Intergovernmental Personnel Act was made a statute in 1971. Its purpose is to upgrade the caliber of administrative government at the three levels through a systematic interchange of employees among the jurisdictions.

A federal employee assigned to a state or local government for a fixed term under the provisions of this law retains his Civil Service Retirement Act coverage. Similar consideration is extended to state and local government workers in their respective retirement programs.

But the federal employees who will be beneficiaries of the pending legislation are in limbo because they cannot now utilize this federally related state or local service for federal retirement purposes.

At a time when strenuous efforts are being undertaken to promote effective dialogue among the respective jurisdictions, it would be most appropriate for the federal government to commit itself to providing retirement credit to those who labored on cooperative programs that are federal in inception and in policy.

During the past several years, attention has been focused in Congress on the deficiencies in many of the pension plans applicable to private industry workers. Among the most common criticisms is the inability of employees to transfer their retirement credits from one company to another when they change jobs—commonly referred to as “portability.”

Through the pending bill, members of Congress will have an opportunity to display their concern about this problem by allowing the small number of individuals affected by the bill to use their service in cooperative programs to augment their Civil Service retirement credit.

All told, there are between 7,000 and 8,000 federal employees who would be eligible for Civil Service retirement credit, if they meet the stringent conditions for acquiring that credit.

There is only one amendment we recommend for serious consideration by the Subcommittee.

It involves a small number of career workers—about 125—employed by the United States Information Agency or the State Department, who have been unable to acquire Civil Service retirement credit for service as Bi-National Center “grantees” under the United States Information and Educational Act of 1948.

These individuals were appointed to their positions as “grantees” solely because the State Department believed that foreign countries would not accept them if they were formal embassy employees. With the exception of a diplomatic passport, their conditions of employment were identical to other embassy informational and cultural employees.

When the “grantee” designation was discontinued by June 30, 1990, some employees were transferred to U.S.I.S. positions. Others were named as Foreign Service Staff Officers in 1966. While covered by the Civil Service Retirement Act at present, none has been able to secure retirement credit for service as a “grantee.”

We endorse inclusion of these employees in the bill you are considering.

With this small addition, Mr. Chairman, the Department urges the Subcommittee to extend early, favorable consideration to the pending legislation.

STATEMENT OF CLYDE R. PAYNE, SECRETARY-TREASURER, NATIONAL ASSOCIATION OF AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE COUNTY EMPLOYEES

The National Association of Agricultural Stabilization and Conservation Service Employees (NASCOE) is a voluntary organization of County Agricultural Stabilization and Conservation Service Employees—hereafter referred to as ASCS employees. Approximately 98% of the 9500 ASCS employees are members of NASCOE from practically every county and every state. The sole purpose of this organization is to promote the welfare of its members. Each state has a state organization of ASCS county employees and is affiliated with NASCOE and has members on the Board of Directors. NASCOE has national officers and an executive committee representing five areas of the United States. They are: President, F. H. Scarborough, Jr., Valdosta, Georgia; Vice President, Wayne Taylor, Muskegon, Michigan; Secy-Treasurer, Clyde R. Payne, Jasper, Florida; and Past President, Brad Rowland, Anson, Texas.

Area and Executive Committeemen: Midwest, Warner Walrath, Primghar, Iowa; Northeast, Elmer Kaegebein, Grand Island, New York; Northwest, John Van Calcar, McMinnville, Oregon; Southeast, Neal Phillips, Halifax, North Carolina; and Southwest, Glenn Lamirand, Pawnee, Oklahoma.

ASCS employees administer Federal programs assigned to them by the Congress, the Secretary of Agriculture, Executive Orders, etc. The headquarters for ASCS is in the United States Department of Agriculture Building, Washington, D.C. There are also state and county ASCS offices who administer only Federal programs. City, county, or state governments have no connection with the national, state, or county level of ASCS.

ASCS employees on the county level administer directly to the farmers of the U.S. a great number of the complex USDA farm programs, such as the Rural Environmental Conservation Program, Marketing Quotas (tobacco, peanuts, and rice), Commodity Credit Loans, Cropland Adjustment, Wool Incentive Payments, Sugar, Disaster (cotton, wheat, feed grain), etc. These are practically all the action programs of the USDA.

Although county ASCS employees are not Civil Service employees, the Congress has granted us many of the fringe benefits of Civil Service employees including health benefits, retirement benefits, etc., and we feel we are entitled to these and any forthcoming benefits granted Federal employees.

The primary purpose of this statement is to relate to you a background of our organization, which has been done above, and to state we feel legislation as stated in H.R. 2745 should be enacted.

We feel employees under the Civil Service Retirement System who formerly were employed in Federally-funded programs operated by state and/or county governments should be permitted to purchase Civil Service Retirement Credit for this type employment. It appears to us this provision would be fair and equitable to the eligible employees and to the government. Also, this would permit earlier retirement and, thereby, reduce the number of Federal employees and/or permit younger persons needing employment to become employed.

Our association is very interested in being sure employment as a Vocational Teacher of Agriculture is included under the provisions of this potential legislation. It is our belief employment as a Vocational Teacher of Agriculture is permitted under the provisions of H.R. 2745, but if it is not, we respectfully request an amendment as necessary to insure this type employment is included as Federal funding is an integral provision of salaries, etc. for Vocational Teachers of Agriculture.

Our association appreciates the opportunity of being permitted to submit this statement. We, also, appreciate your past and future consideration in assisting employees under the Civil Service Retirement System, as well as consideration of other benefits.

Thank you.

94TH CONGRESS
1ST SESSION

H. R. 2745

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1975

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

A BILL

To encourage earlier retirement by permitting Federal employees to purchase into the civil service retirement system benefits unduplicated in any other retirement system based on employment in Federal programs operated by State and local governments under Federal funding and supervision.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 8332 of title 5, United States Code, is amended
4 by adding at the end thereof the following new subsection:
5 “(L) Subject to sections 8334 (c) and 8339 (b) of this
6 title, an employee or Member shall be allowed credit for
7 any period of service performed by him (unless the em-
8 ployee or Member was certified as being eligible for relief)

1 in the employment of a State, a political subdivision thereof,
2 or an instrumentality of either, primarily in the carrying
3 out of any program authorized by Act of Congress to be
4 conducted in accordance with standards prescribed by Fed-
5 eral law and all or part of which is financed directly or
6 indirectly by Federal funds if—

7 “(1) the head of the executive agency, or his
8 designee, administering the program or assuming the
9 function or program makes a certification to the Civil
10 Service Commission, in accordance with such rules and
11 regulations as may be prescribed by the Commission,
12 concerning the service under this subsection, or such
13 service is otherwise established to the satisfaction of the
14 Commission;

15 “(2) the employee or Member has at least five
16 years of allowable service, under this Act exclusive of
17 service allowed under this subsection;

18 “(3) any such period of service has not and will
19 not be used in obtaining an annuity under any other re-
20 tirement system, including Social Security; and

21 “(4) the employee retires—at whichever is later—
22 within one year of enactment of subsection (L), or
23 within one year of reaching the age and years of service
24 requirements set forth in section 8336, unless the em-
25 ployee dies or is otherwise separated from the service

1 prior to meeting the provisions of this subsection (4) ;
2 and

3 “ (5) the employee or Member shall have deposited
4 with interest at 4 per centum per annum to Decem-
5 ber 31, 1947, and 3 per centum per annum thereafter,
6 compounded on December 31 of each year, to the credit
7 of the civil service retirement and disability fund a sum
8 equal to the aggregate of the amounts that would
9 have been deducted from his basic salary, pay, or com-
10 pensation during the period of service credited under
11 this subsection if during such period he had been sub-
12 ject to this Act: *Provided*, That in determining the
13 amount of such deposit, the term ‘period of separation
14 from the service’ as used in section 8334 (c) shall be
15 construed to include a period of service credited under
16 this subsection (L) : *And provided further*, That the
17 employee or Member may either make the full deposit
18 within thirty days from the approval of his application
19 for retirement credit under this subsection (L), or make
20 the deposit by twelve equal monthly payments withheld
21 from his annuity as it accrues, each payment compris-
22 ing one-twelfth of the deposit and interest computed at
23 the rate of 3 per centum per annum.

24 For purposes of this subsection, ‘State’ means the several
25 States and Puerto Rico.”

1 SEC. 2. The annuity of any person who shall have per-
2 formed service of the type described in subsection (L) of
3 section 8332 of title 5, United States Code, as added by the
4 first section of this Act, and who before the date of enact-
5 ment of this Act shall have been retired on annuity under
6 the provisions of subchapter III of chapter 83 of such title,
7 or prior provision of law, shall, upon application filed by any
8 such person within one year after the date of enactment of
9 this Act and in accordance with the provisions of such sub-
10 section (L), be adjusted effective as of the first day of the
11 month following the date of enactment of this Act, so that
12 the amount of such annuity will be the same as if such sub-
13 section (L) had been in effect at the time of such person's
14 retirement. Similarly, the annuity of a person qualifying
15 under the deferred annuity provisions of section 8338 and
16 performing service described in subsection (L) shall, upon
17 application filed by such person within one year after quali-
18 fying under section 8338, be adjusted effective as of the
19 first day of the month in which he qualifies for the annuity.



CHAIRMAN

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

March 11, 1975

Honorable David M. Henderson
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This refers further to your request for the Commission's views on H.R. 2745, a bill "To encourage earlier retirement by permitting Federal employees to purchase into the civil service retirement system benefits unduplicated in any other retirement system based on employment in Federal programs operated by State and local governments under Federal funding and supervision."

H.R. 2745 would allow Civil Service Retirement credit for certain periods of service as an employee of a State (including Puerto Rico), a political subdivision thereof, or an instrumentality of either. The program in which the individual was employed must be one authorized by an Act of Congress, conducted under standards prescribed by Federal law, and financed, in whole or in part, directly or indirectly, by Federal funds. In brief, credit for State service would be available to past, current, and future employees and Members of Congress under the following conditions:

- (a) The head of the executive agency (or his designee) who has responsibility for the program must certify such service or such service must be otherwise established to the Commission's satisfaction;
- (b) the employee or Member must have completed at least 5 years of creditable Federal service before this non-Federal service may be counted;
- (c) such State service has not been and will not be used in obtaining an annuity under any other retirement system or under Social Security;
- (d) the employee retires within one year of the bill's enactment or within one year of reaching the age and service requirements for an immediate annuity (whichever is later); and

- (e) the employee or Member shall have deposited, with interest, the percentage retirement deductions applicable to the State service as if it had been covered Federal employment.

The deposit for the State service (under (e)) can also be made in 12 equal monthly payments withheld from the employee's or Member's annuity as it accrues, each payment comprising one-twelfth of the deposit and interest computed at the rate of 3 percent per annum.

Annuityants must apply for credit for such State service within one year after the date of enactment. Persons qualifying for a deferred annuity must apply for credit for such State service within one year after the date they qualify for the annuity.

In each instance, credit would be permitted only for periods of described service performed prior to final employment under the retirement law. The adjusted benefit rates of annuityants, after inclusion of added service, would be effective from the first of the month following enactment. The adjusted benefit rates of persons entitled to a deferred annuity would be effective as of the first day of the month in which they qualify for the annuity.

The Federal Government uses at least three different methods to implement programs in which it has an interest. It may: (1) do all or part of the work itself using Federal employees; (2) contract to have all or part of the work done by private contractor, in which case employees of the contractor do the work; or (3) furnish funds to States or other agencies to do the work, in which case State or other agency employees do the work. Method (3) describes the type of employment this bill seeks to credit under the retirement law.

Examples of the third method are the Federal grants, loans, and other aids afforded the several States and their instrumentalities in carrying out varied programs involving agriculture, public roads, education, social service, unemployment relief, etc. Although Federal funds may be involved, these programs are essentially State functions. Employees engaged in their administration are selected, employed, and supervised by the States or State instrumentalities. The fact that some portion or all of their salaries is paid from funds originally appropriated by Congress does not make them Federal employees and does not distinguish them from other State employees for Civil Service Retirement purposes.

The Commission has generally opposed proposals to credit non-Federal service under the retirement law even though the employment was paid for wholly or partly from Federal funds. While we can understand the natural wish of an employee to increase his civil service annuity by having his non-Federal service counted, we can find no reasonable basis for the Government assuming a responsibility to pay annuity for service rendered to some other employer and for which such other employer was directly responsible. The lack of justification is particularly clear where, as would be the

case under this bill, the employment would continue to be treated as non-Federal during its performance and would be treated as Federal only after the service had ended. None of the employees now performing service in the Federal-State programs which this bill would make creditable under the retirement law are considered Federal employees for any purpose. Yet, if the legislation were enacted, the non-Federal service being performed under these various programs today would be creditable and increase the annuities payable under the Civil Service Retirement System for persons who later entered the Federal service.

As an integral part of the Government's personnel program, the retirement system is designed exclusively for the retirement of Federal (and District of Columbia) employees. One of its purposes is to provide benefits in the nature of deferred compensation for service received by the United States. This guiding concept must be adhered to if the retirement system is to remain a Federal staff plan and an effective instrument of personnel management. The system's effectiveness would be severely reduced by treating service for other employers as if it were Federal service. The precedent established by enactment of H.R. 2745 would inevitably generate pressures, and be urged in support of, proposals for extending credit for almost any type of non-Federal service.

It is doubtful that the factual data necessary to permit a reliable estimate of the cost of legislation of this sort can be developed. We would need for this purpose information such as the number of current Federal employees who previously served in any of the qualifying programs, average length of such program service, rates of pay attaching to this State employment, and probable average high-3 year salary at retirement. Since the bill would also cover persons already retired, similar information regarding these annuitants would also be required. In any case, we believe that the cost to the Civil Service Retirement and Disability Fund would be very substantial.

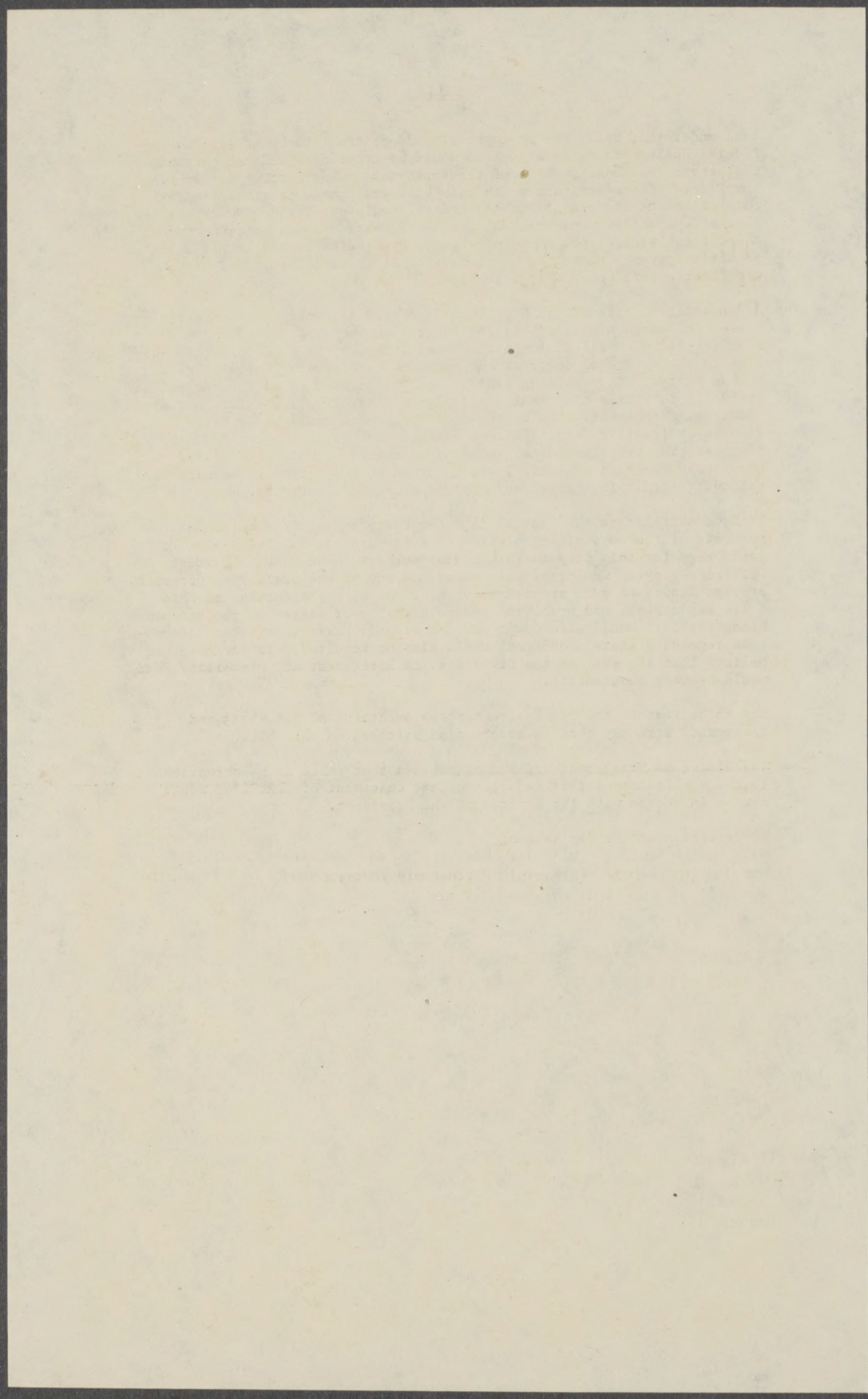
For these reasons the Commission opposes enactment of H.R. 2745 and recommends strongly that adverse action be taken on this bill.

The Office of Management and Budget advises that there is no objection to the submission of this report and that enactment of H.R. 2745 would not be in accord with the program of the President.

By direction of the Commission:

Sincerely yours,

J. B. [unclear]
Chairman



RETIREMENT CREDIT FOR SERVICES RENDERED STATES AND OTHER GOVERNMENT INSTRUMENTALITIES

WEDNESDAY, APRIL 9, 1975

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 9 a.m., in room 219, Cannon House Office Building, Hon. Richard C. White (chairman of the subcommittee) presiding.

The CHAIRMAN. The subcommittee will come to order.

We have convened this morning to continue consideration of H.R. 2745, sponsored by Representative Gladys Noon Spellman of Maryland.

This bill will allow and encourage earlier retirement by certain Federal employees by permitting those Federal employees to purchase into the civil service retirement system based on employment in Federal programs operated by State and local governments under Federal funding and supervision.

The record will remain open 10 days from this date to allow those interested to submit statements for the record.

This morning we will hear from Mr. Richard A. Schroeder, president of the National Association of Federal-State Employees. With Mr. Schroeder this morning is Mr. James Hill and Mr. Robert Tontz.

Mr. Schroeder, we are delighted to have you this morning. You know our procedure is to confine your opening remarks to 10 minutes. Therefore, if you will proceed, either to read or summarize as you prefer.

STATEMENT OF RICHARD A. SCHROEDER, PRESIDENT, NATIONAL ASSOCIATION OF FEDERAL-STATE EMPLOYEES, ACCOMPANIED BY ROBERT L. TONTZ, VICE PRESIDENT, AND JAMES D. HILL, COUNSEL

Mr. SCHROEDER. This is Mr. Tontz, our vice president, and Mr. Hill, our counsel. Thank you, Mr. White, for this opportunity.

We are here to testify on H.R. 4621 and 2745. These two bills do not introduce any new ideas or concepts. The purpose of the legislation is to grant Federal retirement credit to Federal employees, who retire as such, for periods of prior service as State or county employees of Federal-State programs which were federally funded and federally supervised.

We would like to talk to you this morning about extending that retirement to some people who have been left out over the years. We are going to refer specifically to 18 groups and these are the ones that—this is the kind of thing we are talking about in our legislation. Seven thousand people have worked in these kinds of federally funded and federally supervised programs over the years and it is these that have been left out of the legislation we are referring to in the past. We would like to discuss a procedure for having those included in legislation being proposed this morning. As I said before, 27,000 have been included in the civil service retirement system by Congress and by administrative action whereas several thousand were left out. We are not new in this request. Here, as shown on the chart, are 19 groups of non-civil-service beneficiaries. Employees of these groups are non-civil-service employees, but they all enjoy civil service retirement benefits. We don't know how many there are, but we do know that two groups, extension and employees of county ASCS offices, in the 19 total 27,000 and I guess the total would be many, many thousands of people included in civil service retirement privileges even though they don't have civil service appointments. The Congress and the civil service have recognized the right to Federal retirement credit of persons who have performed Federal functions on federally funded and federally supervised projects.

Congress, in 1955, approved S. 1041, which did just the thing we are talking about this morning. However, President Eisenhower vetoed this bill on the mistaken assumption that it would set an undesirable precedent. It was 2 short years after President Eisenhower's veto that new criteria for Federal retirement credit for such persons in the Agricultural Extension Service were approved by the U.S. Civil Service Commission which permitted many people to be brought in who did not have Federal appointments, at least for their prior service. So by going ahead with our legislation we would like to submit, Mr. Chairman, that we could close the gap on these 7,000 we are talking about if they were included along with the other groups that have been brought in. This would not limit it to employees of the Extension Service and employees of County Agricultural Stabilization and Conservation Committees.

The ASCS action like that for Extension also was a step in the right direction as it covered approximately 15,000 additional persons not included in the earlier actions of the Civil Service Commission. We agree with all these procedures. They are entirely correct. As I said before, Congress recognizes the need and the responsibility to provide this kind of retirement system for people working in federally funded programs, but it stopped too soon and left out these 7,000. I suppose if we were a larger group we would have gotten more attention. It seems like larger groups have been brought in, did, whereas these small groups are not very large and, therefore, we do not attract enough attention to receive the same privileges that our colleagues do working in these other programs we referred to.

At the hearings on June 18, 1973, on this same bill or similar bill, the Civil Service Commission representative referred to 101 groups that appeared in this publication here, "Federal Aid to States." The Federal Government supplies funds for 101 programs of the various States. He left the implication that all these groups would be brought

in as well as the 18 we are talking about. Well, we knew that was not the case and with considerable research we found out that 37 of the 101 groups are in our bill. They include these 18 groups here listed in the chart. Thirty-seven of these federally funded programs are in the 101 listings here and are sources of funds for these 18 groups. Some of these groups get more than one source of funds. Specifically the highway, the employment service, and the welfare groups. They get funds from several sources. Therefore, there are 37 sources of funds for these 18 groups. Forty-one of these 101 groups are already Federal employees. They are Federal employees in the State or States conducting their programs and are referred to in the programs that are already Federal employees. Then 22 of these groups are made up of councils and commissions for the State employees and are not salaried, such as the Water Resources Council and the Administration on Aging and so on. Twenty-two of these smaller groups are simply advisory in their work.

We recognize the possibility of open endedness and we have noticed that there are wild generalities made about how many are going to be included in our bill, so we would like to limit the number we are talking about to these 18 groups. They do meet the three tests we keep referring to. Even though the bill itself that we are talking about, H.R. 2745, does not include them, we do have the 18 groups listed and we want to make sure that these are included in this legislation. We also recognize that the Commission receives thousands of applications for retirement that they turn down and that is correct. They have to protect the fund, but they must be consistent in the application of the law and the intent of Congress and their own policies and we feel they have not done this in the case of these 7,000. These two bills we are talking about are designed to give credit to those people who performed a function which was created by an act of Congress and administered by a Federal department and was financed wholly or in part by Federal funds. We believe, Mr. Chairman, and others on the subcommittee, that this legislation is fair and equitable and we feel this way for five reasons. No. 1. By way of background the disallowment of this small remaining group of 7,000 results solely from the lack of an original Federal appointment. No. 2. A precedent has already been set. No. 3. The bills provide that those that wished to avail themselves of benefits must make a deposit into the retirement fund. No. 4. The cost will be further lessened by the provision of the bills that the employees civil service annuity will be decreased by the amount of any other benefit he receives for the same service. No. 5. The beneficiaries are currently Federal employees. We are not trying to federalize any State employees.

To go a little more in detail on these points, Mr. Chairman, and going back to No. 1, here I shall state that these small groups were disallowed because they did not have Federal appointments. We do not deny that. The Commission has brought in many people without Federal appointments as you will note by the example of the Agricultural Extension Service who were granted Federal retirement credit by administrative action of the Commission on September 30, 1957, or those employees of county agricultural stabilization and conservation committees who were granted retirement credit by law in 1960 or those binational employees who were granted retirement credit

by court action in 1974. That argument to us, concerning the lack of a Federal appointment, does not hold any water. No. 2, the precedent has been established even though President Eisenhower vetoed it in 1955, because he said it would set a precedent. This is no longer true and as I mentioned previously over 27,000 plus have been brought in after President Eisenhower vetoed it. The 7,000 are still excluded. No. 3, the bill provides that beneficiaries must make a deposit in the retirement fund of contributions for the period of their past State service. This gets into the area of the cost of the program. In January 1974, we took our figures to the Civil Service Commission and their actuarial experts told us that the cost for this group would be \$7.3 million per year gross cost. This amount would equal 0.2 percent or two-tenths of 1 percent of the cost to the retirement fund. We feel that that is a very minimal cost. Going beyond that as shown by the chart the curve is going downward. A few years ago we were talking about 11,000, 8,000, and then 7,000. So this cost will further decrease over the years. However, it will never reach zero because several of these government agencies choose to go to their Federal-State counterparts for recruitment of qualified Federal employees.

It will never reach zero because of this and other types of recruitment going on in Federal establishments. We did have reference here about people dying and then the problem would disappear. That made us a little sad. We old duffers here think that if that is how you are going to solve the problem it would seem to be a cruel procedure to follow. We send newsletters to our members across the country and tell them what is going on but some are returned and marked across them with the word "deceased." In those letters we often have notes from the widows, including their wish to help work out or contribute to continue our work here. I would like to read one that we received recently from a widow in Tennessee.

My late husband John S. Robinson passed away almost 6 years ago. He worked aggressively on the project that all of us were interested in as long as he was physically able. Several of his coworkers who were concerned about the bill H.R. 2745 have also died. He taught 4 years at Smith Hughes Agriculture here in Tennessee. He wanted his friends and others to have what they deserved. Enclosed is a check for \$5 to help with postage.

We get lots of these letters from our widowed people across the country and we feel it expresses the view of all the people that have worked on this for so many years and were denied this.

The CHAIRMAN. Your time is up, sir. Do you have any special points you want to make before I cut you off on your initial testimony?

Mr. SCHROEDER. I am not finished.

The CHAIRMAN. We will go on with the questions and maybe you can cover your points as you answer these questions.

Mr. Schroeder, you and the gentlemen with you probably recognize we are in a time of austerity and there is a good likelihood this bill if passed in its present form could be vetoed. I suppose you recognize that.

Mr. SCHROEDER. I don't know.

Mr. TONTZ. We feel it is a just cause.

The CHAIRMAN. This committee is not a partisan committee. We are designed to develop legislation. We try to work as a government of separated powers. We anticipate the bill would have to go to the President for signature. It is my personal belief that the bill in its

present form would be vetoed. It categorizes the groups that you have in the circle and I would submit that the circle may not be complete. There are other programs you have not covered. You spoke in your testimony of the 18 groups that you feel should be covered, but you recognize that there are others that may come under some program or definition that should be included. If your group is included, should we scratch out those groups that were left out, such as the food stamp program?

Mr SCHROEDER. That whole program is administered by the Agriculture Department and they are included. There are about 400 people in Washington that have come up through that route that would benefit, you see. Then the revenue sharing people and we searched that out and several sources and there are only 78 employees that run that program anyway and they say that there is no way that their State people that administer the funds would ever meet the three tests that we are talking about here.

The CHAIRMAN. What are your three tests?

Mr. SCHROEDER. Federally funded, federally supervised, and Federal-appointments by a substitute procedure. We have not gotten to that point. I would like to explain that to you.

The CHAIRMAN. All right.

Mr. SCHROEDER. The Extension Service was federalized, generally speaking in 1944 but prior to this they were not allowed Federal retirement. The test case was made by a man by the name of Charles Ulen Pickrell. This was referred to by a Civil Service Commission representative several weeks ago. He, Pickrell, was not a Federal employee for the 11 years, 1923-34, for which he received Federal retirement credit and his principal supervisor the State extension director, Pontus Henry Ross, was not a Federal employee either during these 11 years. Pickrell did have his name on a State planned budget which was approved by the Extension Service in Washington so the Civil Service agreed that that was the way to do it. They simply said that if he is on a budget and the documents are approved, that is the same as a Federal appointment. These were issued on September 30, 1957, which said that we will make this a substitute appointment and he and all like him, and there were many included for the prior time.

The CHAIRMAN. Let me ask you this. Don't you think that the person to be included in the Federal Retirement System should be in such a job that the benefit to the Federal Government should be as much or more than 50 percent?

Mr SCHROEDER That is an interesting question. We have thought about this a lot and tried to get a good answer. I will let the other gentlemen, through their answers, explain this. To me it is the people that benefit on any program. These programs are designed by the Federal Government to help the American society.

The CHAIRMAN. No. They are not here to help the American society. They are here to help Federal employees. If we had a general retirement program for all people in the United States under the system, we would not have to work—

Mr. SCHROEDER. I thought you were referring to the program.

The CHAIRMAN. The Federal retirement program.

Mr. SCHROEDER. I thought you meant the program itself?

The CHAIRMAN. The Federal retirement program. We have had different definitions.

Mr. SCHROEDER. I still stick to my point. If it is a program working for that determination, whether they are going to have their retirement, if that program they are working for—they are working for the benefit of the Government or the people, I still maintain—the retirement system would be for the benefit of all.

The CHAIRMAN. Did you say that the welfare people in the States are included in our bill, there in the 18 groups? Anyone involved with welfare would be included?

Mr. SCHROEDER. I didn't say that. Those that administer it in the States. The welfare agent. I am not talking about the bankers we saw on television last night.

The CHAIRMAN. I am talking about the people in each county that administer welfare. They would be included?

Mr. SCHROEDER. The welfare people will be included in that bill.

The CHAIRMAN. And would the food-stamp people?

Mr. SCHROEDER. Those welfare people do meet these three tests.

The CHAIRMAN. What about people administering revenue sharing on a local basis that are assigned to a job to administer revenue funds coming into a city?

Mr. SCHROEDER. We checked that out with the personnel officer and the administrative officer here in Washington and they came up with those two answers. Those people had no Federal appointment of any description. The fact that only about 1 percent of those State people are ever coming into Federal Government. We are only talking about people that come into Federal—the Federal stamp program.

The CHAIRMAN. I understand that the welfare people that administer on a local basis are not appointed by the Federal Government, but by the local government.

Mr. SCHROEDER. The State people that we work for just like these other groups we are talking about, they appoint a person to a State plan signed by HEW in Washington.

The CHAIRMAN. That is the basis, if HEW signs it and a Federal administration agency signs the basic generic order that classifies those that administer those orders on a local level, would it be equitable to come under this program?

Mr. SCHROEDER. I don't know if I follow all your language.

Mr. TONTZ. If I may interject this. They would only come, providing they meet the three criteria as promulgated by the Civil Service Commission in 1957. Federally funded supervised persons who had appointments by a substitute procedure. If they fulfill these three criteria, in the interest of equity, they could not be excluded. In this judgment here, after we polled the groups, after we considered the groups, we feel that the welfare people that administer this program would fit these three criteria.

The CHAIRMAN. If I may take a minute. What do you mean by "substitute appointment"? What level and how—

Mr. TONTZ. The level as promulgated by the Commission that it is in lieu of a formal appointment and it means that the individual has to be—has to have his name on a project agreement and on a budget document.

The CHAIRMAN. Suppose an HEW grant is made to a local community? You have a Federal program. There is a project document. Does that person qualify?

Mr. TONTZ. If he meets the three criteria.

The CHAIRMAN. That means 3,000 and——

Mr. TONTZ. I don't think he would meet the three criteria.

The CHAIRMAN. What is the other?

Mr. TONTZ. Federally funded and supervised and he must have a Federal appointment by a substitute procedure.

The CHAIRMAN. It appears to me he meets all three from what you tell me.

Mr. TONTZ. I don't agree, sir. If that were the case he would be a Federal appointee and there would be no argument here.

The CHAIRMAN. When you are talking about a substitute appointment, are you talking about a political subdivision that derives its agency powers through an act of Congress and through the grant of a Federal Government?

Mr. TONTZ. Yes.

The CHAIRMAN. That would cover virtually every Federal program in the United States.

Mr. TONTZ. Not the appointment criterion.

The CHAIRMAN. We are mincing words right now. Let me ask you this. Isn't service that is creditable to the retirement system and——

Mr. TONTZ. Yes. That is my understanding.

The CHAIRMAN. Therefore, wouldn't the State service also be available for those other persons?

Mr. TONTZ. No. The State service that we specified for this bill requires that the individual must meet the three criteria as provided for by the Civil Service Commission.

The CHAIRMAN. Of the 7,000 persons you mentioned benefiting from this legislation, can you tell us what their present 3 high years of average salary are?

Mr. SCHROEDER. We made a survey in 1972 and the average was \$14,000 at that time. Maybe more at this time. We would like to show this chart here to get down to the point you are coming to, Mr. Chairman. This chart here shows the length of service of Federal employees in their Federal assignments. This is Federal and not State. This is Federal. You can see how heavy it is on the upper end. We have all these people that work for more than 15 years. A total of 82.3 percent of us have worked for more than 15 years in the Federal Government. The average 5 years of the State service we are talking about. You see it is a very small percentage, 4.3 percent of our 7,000 have worked for periods of 5 to 9 years. This is the point we are coming to.

Mr. White, when I talked to House Leader Jerry Ford he brought up this point to me. The only opposition I could detect was that he was afraid people would come in with 5 years of Federal service that could be included. I said "You are right." We do not deny that. It doesn't prove out to be the case because most of us, 82.3 percent have been in more than 15 years in the Federal Government and, therefore, not likely to have 20 years of State service. This keeps moving to the right. Just 5 years—we are talking about that and we would, if you like, raise it up. We would like to talk to you about that.

The CHAIRMAN. What is the answer to the question? What is the average?

Mr. SCHROEDER. When they did the State survey that is similar to the present Federal one. All of us that have worked in Federal establishments years back, the Federal and State salaries are about the same. They averaged about, as I recall, and I am not sure, but about \$3,000 per year which would be similar to any Federal employee. They worked at a low rate and——

The CHAIRMAN. How much would——

Mr. SCHROEDER. \$1,400. Five years times \$14,000 times 2 percent equals \$1,400 per year.

The CHAIRMAN. You wanted to ask a question, Mr. Hill?

Mr. HILL. I wanted to answer a prior question.

The CHAIRMAN. I am going to turn the questions over to the other members. Mr. Jenrette?

Mr. JENRETTE. Let me go back to what the chairman was asking earlier. H.R. 2745 encourages earlier retirement. That is a title. Tell me, please, how it would encourage early retirement and when it would apply—regardless of when one was separated—to people already retired as well as those that had deferred annuities?

Mr. SCHROEDER. Mr. Jenrette, there is a little history to that statement you made. That was the type of people 2 years ago under H.R. 4884. We had hearings on that at the time, but subsequent to the hearing and the markup session the whole thing was rewritten and so that was no longer a part of the bill that we wished to talk about. The one that Mr. Harris introduced, because we found that that feature was not acceptable to anybody. Social security and our own people. I asked the question for you, but it is not relevant. We do not wish to pursue that aspect of the bill at all any further. In answer to your question, we say that if they were given complete credit 2 years ago that they would have to retire. That did not really go well with anyone, especially the committee at that time, so we rewrote the bill and came up with this and Mrs. Spellman got on it before we had a chance to talk to her or anybody else. That is in the mill. If it goes to the——

Mr. JENRETTE. On page 66 of your statement the word "minimal" appears in regard to, "As a result, any increase in the unfunded liability of the Civil Service Retirement Fund would be minimal." It appears to me that the Government's 90-percent obligation of either of the bills seem to be that it would be much more than minimal. I don't see how you can arrive at those figures. Is that based on the 7,000 that it would be only those that would be covered?

Mr. SCHROEDER. They are the only ones we know about. We have been working on these for years and years and years. These are the only people that have come forward; 7,000 I mentioned before. There is—Mr. White just mentioned the cost of the bill that was estimated and calculated by the Civil Service Commission and these are their figures. We feel that two-tenths of 1 percent is minimal. That is where we got the figure "minimal."

Mr. JENRETTE. What part of the retirement would be covered by the employee's deposit, if you have any idea?

Mr. SCHROEDER. The first 3 years. I am not sure about that.

Mr. JENRETTE. Ten percent or——

Mr. SCHROEDER. I think the Commission figured that most annuitants lived 17 years after retirement and if you divide that into three what do you get? You get about 18 percent.

Mr. HILL. May I add to that? The Civil Service Commission figured that these 7,000 people—each one of whom would get about \$1,000 a year more and the total cost would be about \$7 million. The Civil Service Commission does not deduct from that the amount they would have to pay. It would deduct from the \$7 million and this year we added another provision that also is the amount the employees get for the same service for the State retirement or from social security that would further reduce the gross cost of \$7 million. We don't know how much.

Mr. JENRETTE. Would the survivor's potential annuity be increased?

Mr. HILL. Yes, but the percentage share would remain at 55 percent. I think that is how the Civil Service Commission gets 17 years. If a man retires at 62 he has a life expectancy of 10 years. The Civil Service Commission figures that the average annuitant marries a woman 4 years younger and lives 3 years—or the other way around. You come up with 17 years.

Mr. JENRETTE. Interesting statistics.

The CHAIRMAN. Mr. Harris?

Mr. HARRIS. You made reference to the bill I introduced which is H.R. 4621 as we have gotten questions this morning as to how great the potential is for additional people coming in. I went over and tried to reflect in this draft on some of the questions I had heard initially on this bill. I felt that we had effectively restricted the potential of how many would come in that we didn't know about. Am I incorrect in that?

Mr. SCHROEDER. You are correct.

Mr. HARRIS. If you would respond to me, how do we effectively control that. I have tried to designate categories very clearly as to who would come in. Aren't they easily designated as to what the potential number are?

Mr. SCHROEDER. We started 20 years ago, in fact, surveying all the agencies and spoke to the personnel officers and administrative officers and they were helping us by giving names and addresses of people that had this kind of employment that we are talking about. We had accurate figures of all these groups and we had a letter here from the Under Secretary of Labor. He asked that this be enacted because they want this privilege of going to the States and bringing in their people and bringing their rights with them. They have trouble recruiting and they have to leave their retirement behind.

Mr. HARRIS. There is no question that this is a benefit. The fear is being expressed by the subcommittee that somehow you open up the door for a potential number of people and we have no accurate account of what this would be. I can see how that under H.R. 2745 this might happen.

Mr. SCHROEDER. Yours would not.

Mr. HARRIS. With regard to 4621, I don't see how this could happen.

Mr. SCHROEDER. That is why we specified—if we leave the groups out, then we are faced with the open-ended features of the bill. We tried to compensate by listing the groups. If you list the groups you get the feeling we are excluding some people. If they meet the three tests like these three groups, they should be in.

Mr. HARRIS. We have to do that by subsequent legislation. You have specified the three criteria with respect to eligibility. I think it is clear in all the members' minds what federally funded project means and what federally supervised means. I think there is a good deal of confusion as to what Federal appointment by substitute procedure means. That is confusing. I think some of the questions indicate that anytime a project has been submitted by the Federal Government that anybody that happens to be in a position administering that project would be included under this criteria. As I understand Mr. Tontz' response, and maybe I am incorrect, in that the person is not included unless his name has actually been included in the project; he is actually assigned to the project; he is specified both in that project and a budget document, and he is charged with administering this federally funded program. Is that correct?

Mr. SCHROEDER. Yes.

Mr. HARRIS. That seems to limit it even though it was not specified in the bill.

Mr. SCHROEDER. They did not come anywhere near meeting these criteria, the ones you mentioned. We have no fears that these kinds of findings would be included. I am sorry that you others don't see it the same way. There is no document in Washington that specifies these people that you are referring to. They just don't have it. We all do. Those 18 do have documents. Some people have gone to the archives and have gotten documents signed by the Federal Agency with their name on it.

Mr. HILL. Can I add to that?

Mr. HARRIS. Sure.

Mr. HILL. These 18 groups are of course not future groups. They are people that traditionally did work for a State program years ago in the 30's or 40's or early 50's when the State didn't have any adequate retirement system or no retirement systems. Now, at the present time I think almost every State does so there is the provision in this bill that anything you get from your State Retirement System must be deducted from anything you—

Mr. HARRIS. Actually this bill would not create any redundancy as if in fact they were receiving benefits under the State program or under Social Security. This would be deducted from any potential retirement benefit from the Federal Retirement Program. Is that correct?

Mr. HILL. Yes. I think if there were any real fear of the hundreds of thousands of future people that may be included under future programs, that would be taken care of by an amendment that any State retirement that you get for the same years of service you won't get any retirement under this bill. I think that would exclude any future employees—from getting any future people from getting benefits under this bill. These 18 groups are oldtimers that don't get, for the most part, any State retirement at all.

Mr. HARRIS. I have one final question. Don't you agree, Mr. Schroeder, that the retirement system is not healthy and that this just simply adds to the sickness of the retirement program?

Mr. SCHROEDER. I can't agree with that at all. You have stated here that something like \$8 billion are being paid in and \$4½ billion are being paid out. As I recall, the Commission gathers in 14 percent of the Federal salaries involved and takes 13½ to keep the fund going.

When we talked to the Commission man-to-man they never questioned the cost. Cost was not their hangup on this, nor really was principle. They admitted this policy that they have established and so I said to Mr. Hampton, "Your operation is based on tradition and not fact." He did not deny me.

Mr. HARRIS. I recall the representative of the Civil Service Commission stating that when the employee left the State he got his contribution back like the Federal employee. The Federal Government has met its obligation.

Mr. TONTZ. No, I don't agree. The State received a Federal contribution from Federal funds on behalf of the employment of the State individual. When this individual left the employment of the State he entered the Federal service and this Federal contribution on his behalf or his prior State service was not sent along with him. Therefore, he was denied credit for those years. Of course, he was granted back his individual contribution. In view of the fact he did not have tenure, then it took 15 or 20 or 25 years to get vested in the State, this individual has no retirement credit. I think the correct thing is that the individual should be granted credit for this Federal contribution on his behalf by the State. It should be returned by the State.

Mr. HARRIS. Who got it?

Mr. TONTZ. The State got it and kept it.

Mr. JENRETTE. He received no portion that the State has matched into that?

Mr. TONTZ. The Federal Government.

Mr. JENRETTE. Or Federal Government, either one. You are saying that the individual, when he voluntarily terminates his State employment and comes with the Federal Government that he should receive full credit wherever he might go?

Mr. TONTZ. If he is not eligible and has not served long enough in the State to fulfill the vesting requirement, then he should be entitled. Use of Federal funds for State retirement was provided by Public Law 422, as I remember in 1940.

Mr. DANIELS. I don't follow your reasoning on that. If he doesn't get vested from the State and joins the Federal Government, the Federal Government should give him credit. By what reason should the Federal Government compensate him for the lack on the part of the State for whom he worked?

Mr. TONTZ. The individual works 5 years under a federally funded project and is federally supervised and the individual transfers to the Federal Government and serves 5 years in the Federal Government. He has to do that as a minimum, eventually. Having served 5 years in the State he has no vesting entitlement in the State and the Federal contribution made on his behalf from Federal funds to the State is not giving him any credit. It is not returned by the State to the Federal Government on his behalf. The Federal contribution is kept.

Mr. SCHROEDER. I would like to say, Mr. Daniels, that we have investigated all the retirement systems in every State to find out for sure what was going on in this area and not one State ever returned any funds to the Federal Government when this man went into Federal service, even though the money had been paid into the

State retirement system by Federal funds, but interestingly we did find out that many States now are reversing this whole procedure by granting State retirement rights for Federal service. Just a reversal. When the man goes to the State and retires on the State retirement program, if he has had Federal service, many States are giving him credit for that Federal service. Just a reverse.

Mr. HARRIS. Mr. Chairman, this area I think is obvious injustice if what you are saying is that there are cases where the State retirement fund has in fact benefited from the Federal contribution never to the benefit of the individual that earned that contribution. In fact, when he moved in this free society of ours from a State job that was federally funded and went to a strictly Federal job he was denied any credit for this time in that State system, but the Federal funds were left in the State—he is the one that earned it. The State didn't earn it.

Mr. SCHROEDER. In the case of manpower this is an example. Manpower offices are pretty much 100 percent federally funded. I have heard the figure of \$10 million a year that goes into this. They leave the State operation and come to a Federal job and they cannot bring any of that money with them. They have asked for the money, but the States are not turning it loose.

Mr. HARRIS. The only question in my mind is where a fellow had a State retirement program and if we gave him credit in the Federal would there be a redundant coverage? Today, where most vesting occurs in 5 years, we wouldn't have this injustice to deal with. The problem is the type of State programs that existed. If they were the types of State programs with the 10, 15, or 20 vesting program, we would not have the problem. If you leave all the funds other than your own, they are going to be lost to you.

Mr. Chairman, I note my time is up. I think this is important. I have put in another bill on this. I hope that this subcommittee will take cognizance and Mrs. Spellman asked me to indicate she wanted very much to be here because she has a keen interest in this. She had a conflicting hearing of longstanding and she had to attend. She couldn't be at both places at the same time.

The CHAIRMAN. Mr. Daniels?

Mr. DANIELS. What is your understanding of the law as it exists today for a Federal employee to qualify.

Mr. SCHROEDER. They have to meet the three criteria right up here. Those three tests are listed in the chart.

Mr. DANIELS. That is what you interpret it to be?

Mr. SCHROEDER. He has to have 5 years Federal service.

Mr. DANIELS. Isn't it set forth in the title 5, United States Code 2105, that an employee must be appointed by a Federal officer or agency?

Mr. SCHROEDER. I am not sure what the law says. We are going by the interpretation of the Commission. This is what they came up with. These three criteria. It is their interpretation of the law.

Mr. HILL. The answer to your question is yes. That is what 2105 says. He has to be employed by a Federal officer. That is the problem with the people we have. There are three criteria in 2105 and our employees, the appointments by the Federal officer——

Mr. DANIELS. Is lacking?

Mr. HILL. Yes.

Mr. DANIELS. You are asking for the law to be changed to meet these requirements?

Mr. SCHROEDER. Not for it to be changed. Not for the law to be changed. We are asking that the procedures established by the Commission be extended to the 7,000.

Mr. DANIELS. Extension or change in the law?

Mr. SCHROEDER. No. Asking that they continue the procedure already established.

The CHAIRMAN. I understand that all others now incorporated in Federal-State program were had by specific categories and other laws and the Civil Service didn't establish that criteria as such. Established by designation of law.

Mr. SCHROEDER. Congress passed laws bringing these other groups in.

The CHAIRMAN. You indicated there are other groups included by the Civil Service Commission that were not specifically authorized by Congress?

Mr. HILL. For these groups they waived the Federal requirement of a Federal appointment.

The CHAIRMAN. The Congress did not pass any law pertaining to those?

Mr. HILL. That is right. The Civil Service did it by—Mr. Tinsley was here testifying here several weeks ago when somebody brought that up and he said, in effect, he thought it was a—

The CHAIRMAN. That is the only group then included by administrative act?

Mr. HILL. Yes.

Mr. DANIELS. I have read the transcript of testimony taken on 4884, a similar bill, June 18, 1973. The question of the Agricultural Extension Services was brought up and he was asked by the then chairman if these employees of the agricultural service were Federal employees. His reply was that any employee that had gotten retirement credit for service on the Agricultural Extension Service by the Commission is a person who clearly was a Federal employee as defined in 501, section 2015 during the period of that employment. The same is not true of these other groups.

Mr. HILL. May I answer that? The answer is simply wrong. The Civil Service Commission by its action in 1957 just waived the provisions that he had a Federal appointment and they did it by this creation of a reason. They said if his name ever appeared in a budget document any place that they would accept it as the same thing as a Federal appointment. Of course it is not at all. That was their way around it.

Mr. HARRIS. That is what this last criterion means.

Mr. DANIELS. Well, let's get back to the situation that was discussed earlier today. There has been a great extension of the food stamp program. These employees are really employees of the county or local government and because of the fact that this program is federally funded and is also federally supervised, it is your feeling that after termination of their employment that they should come in and be eligible for Federal funds after 5 years of service?

Mr. HILL. Five years of Federal service. As we understand it they are administered by the same—by the same Federal organization. There is a total of 400 of those people transferred to Federal employment and have at least 5 years and come under this bill. When we talked to the agency recently they said they have about 2,500 people working for the Federal Government, about one-half of 1 percent came from State employees who were administering the program.

The CHAIRMAN. How do you try to get into Federal service if we pass this bill in the form knowing that they can draw on their food stamp service or whatever service they may have given under this broad end program?

Mr. HILL. Anything they get from this State retirement system wouldn't be worth anything.

Mr. SCHROEDER. That is a good point. What you are saying is the State retirement systems are all getting better. There is not that much reason for themselves to leave from a happy town in the Midwest and come into this place here. They are not anxious to do that. You are implying—maybe some are going to do it. We are talking about the county employee. I don't know where he would fit into our Federal Establishment here. It is a possibility. Really it is not taking place. We just found out—Mr. Hill says less than 1 percent of every Federal employee came up through the Federal Establishment through this route.

The CHAIRMAN. They have not had this other route before?

Mr. SCHROEDER. A lot of people transfer to this establishment without the—they did it because of their desire to serve. I do not say though it is going to change that much. If at the higher levels it helps when you have a few stray officials that want to be brought in. The county people have wives and husbands working some places. I don't see much transfer. It has not been borne out.

The CHAIRMAN. I mention one thing. A man has been say in food stamps 5 years. Then that is about the length of time we have had the program. Then he comes in and gets 5 years Federal service and also serves in the military. As I recall the law, then he would be eligible for about 15 years of retirement.

Mr. SCHROEDER. We beat that around so much. I will repeat that. That has not been the case. This is a possibility. It is a very remote case. We are more than willing to negotiate this.

The CHAIRMAN. I have more faith in the ingenuities of Americans than you do.

Mr. SCHROEDER. It hasn't happened and when you bring the military into it you have a new ball game. They don't pay into the system anyway.

Mr. DANIELS. In 1957 the Civil Service Commission recognized these agricultural extension employees because their names appeared in the budget. This group was brought in. Assuming that that was a violation of law—they were not Federal employees, actually?

Mr. SCHROEDER. They were in a general sense.

Mr. DANIELS. We don't deal with generalities. In the law we deal with specifics.

Mr. SCHROEDER. The Commission has a responsibility to determine who comes into the system. It was their wisdom that said by meeting this criteria this would be—

Mr. DANIELS. Now, because of that instance you feel everybody whose name appears in a Federal budget, and is in a program federally funded and supervised—the Congress should give credit even though he didn't have Federal appointment. How about the manpower programs now operating in all States. Are we going to have thousands and thousands of more people coming in?

Mr. SCHROEDER. They don't qualify. The food stamp programs do qualify, but the revenue sharing and manpower programs—maybe you are referring to OEO. We checked this out also. We found that five people from State OEO programs had transferred to a Federal job. It doesn't happen.

Mr. DANIELS. The program is not that very old.

Mr. SCHROEDER. The programs keep shifting. The ones we are talking about are longstanding programs initiated long ago and enacted to serve the people and they have been longstanding continuous programs.

Mr. DANIELS. As I understand it, Mr. Schroeder, it was the Civil Service Commission that made the decision that agricultural employees were Federal employees for all purposes and not just retirement. Is that so?

Mr. SCHROEDER. I didn't hear the question.

Mr. HILL. I think just for retirement.

Mr. TONTZ. This is my understanding, Mr. Daniels.

Mr. SCHROEDER. Many of the actions of Federal service are just retirement.

Mr. TONTZ. That is exactly the case. The Commission by promulgating minute 2 in 1957 specified that those individuals who were then Federal employees would be granted Federal retirement credit for their prior federally funded and federally supervised service. They did not have Federal appointments for those prior years. That was a promulgation made by the Commission and it requires, in our judgment, the interpretation of the broad intent of the statute.

Mr. DANIELS. Do you propose to bring the Civil Service Commission in to testify on this bill, Mr. Chairman?

The CHAIRMAN. We can get whatever response you desire through letters and we would enter the letter into the record that you desire.

Mr. HILL. One question further, Mr. Daniels. Wasn't the Commission's action of 1957 unauthorized or a mistake? I don't think you can dispose of it that easily. The Congress did the same thing in 1960. You passed a law bringing in the Agricultural Stabilization and Conservation Committees, about 15,000 people, in which you did about the same thing that the Commission did in 1957. I don't think those people were even in a budget document. The Congress just brought them in. You have got a lot of people that are clearly Federal employees and a lot of people that are not. They have these little twilight—

Mr. DANIELS. I recognize that Congress makes mistakes from time to time.

Mr. HARRIS. No.

Mr. HILL. By these two actions you have brought in 27,000 out of 34,000 of this twilight group. You have included 27,000 already.

The CHAIRMAN. Mr. Taylor?

Mr. TAYLOR. Thank you, Mr. Chairman. I think the concern of this subcommittee is the scope that this thing might develop into. I can share this concern and it appears to me we don't have the guidelines that gives us a clear delineation that how big this umbrella might eventually get. I have that concern now. In 1967 President Johnson, as most of you know, had a task force dealing with this Federal retirement. I noted that they said that the Civil Service Retirement should be granted only for those that met the general criteria for that purpose. Federal funds should be disallowed. Are you familiar with this?

Mr. SCHROEDER. Yes. I have heard that.

Mr. TAYLOR. You are familiar with it, but you are in disagreement with it?

Mr. SCHROEDER. I don't think we are in disagreement with it.

Mr. HILL. I think generally it was true, but I think that that was with respect to this twilight group.

Mr. TAYLOR. The twilight group might burst into the dawn one of these days.

Mr. HILL. That is why we profess it be limited to these 18 groups of old timers that did their service when there was no retirement. If you cut it off and said everybody in this group has to resort to their State Retirement System we would have no objection.

The CHAIRMAN. If I may. Do you think subsequent groups would be satisfied to abide by that decision of Congress or would they be coming back to petition Congress?

Mr. HILL. Human nature being what it is, no matter what you do people are going to come in.

Mr. TAYLOR. I believe you said, Mr. Schroeder, that you had been in contact with several of the States to get a determination?

Mr. SCHROEDER. By agencies, yes. We made surveys and we have come up with documents by the personnel officers and addresses of all the people. This is Farmers Home Administration. People by States.

Mr. TAYLOR. Who are employed by the Farmers Home Administration?

Mr. SCHROEDER. Yes. That had this kind of service in the past after averaging about 5 years.

Mr. TAYLOR. So I may clarify this for my own. This would conceivably be a vocational teacher?

Mr. SCHROEDER. That is the largest group. Vocational teacher. Maybe it represents about 5,000 of the 7,000 we are talking about.

Mr. TAYLOR. You say there are only 7,000 of these people?

Mr. SCHROEDER. We have surveyed them year after year after year and we have come up with less than that. We don't want to be accused of overestimating.

The CHAIRMAN. You mean the reverse?

Mr. SCHROEDER. I think I do mean the reverse.

Mr. TAYLOR. We talked about the ASCS people. When we talk about them are we talking about the people that work in the county offices or what?

Mr. SCHROEDER. The secretaries and so on.

Mr. TAYLOR. Not the——

Mr. SCHROEDER. The manager and his clerks and so on. Of course, it is logical they should be in. That was a good law that Congress enacted.

Mr. TAYLOR. I think that is all.

Mr. HILL. I would like to answer if I may a question you asked as to whether this wouldn't—if we call this Federal service wouldn't it also qualify for annual and sick leave and the answer is no. For a Federal employee—for the same kind of retirement credit and annual and sick leave. We are not asking for an amendment to that law, but the retirement law to make it creditable for retirement only.

The CHAIRMAN. Counsel says it follows automatically under the law.

Mr. HILL. I respectfully disagree with counsel. I know there are different Federal laws for annual and sick leave. We are not asking for an amendment for those. I say it doesn't follow.

The CHAIRMAN. We can resolve that up front. I am going to refer you to this. You may desire to read section 6303, title 5, United States Code subsection 3 to determine whether this may apply to fortify your answer or not. Thank you very much, Mr. Schroeder.

H.R. 4986 was passed out and bore a date of November 14, 1974. We had been advised by the Budget Committee under the chairmanship of Brock Adams that they are exercising their right and privilege under the provision of the rules of the House and the act that no bills may be considered on the floor that were called for funding prior to the next fiscal year, starting July 1. The memo I got was July 1. I thought we took it from October to October. The note says July 1, 1975. What we will have to do is amend that and I suggest an amendment to activate July 1, 1975. This is so we could have consideration on the floor prior to that time. In fact, we couldn't have consideration here unless we changed the provision. It will be in without objection and we will adopt an amendment to change that date from November 14, 1974, to July 1, 1975. The amendment will be offered to the full committee. Is there any objection? Is there any further business? If not, this committee stands adjourned.

[Whereupon, at 10:30 a.m., the hearing was adjourned.]

[The prepared statement submitted by Mr. Schroeder, along with the attachments, follows:]

PREPARED STATEMENT OF RICHARD A. SCHROEDER, PRESIDENT, NATIONAL ASSOCIATION OF FEDERAL-STATE EMPLOYEES

Mr. Chairman and members of this subcommittee, we are here today to testify in support of H.R. 4621, H.R. 2745, and related bills. H.R. 4621 and H.R. 2745 are substantially similar to H.R. 4884, 93rd Congress, on which hearings were held in 1973. The purpose of the legislation is to grant Federal retirement credit to Federal employees, who retire as such, for periods of prior service as state or county employees of Federal-State programs which were Federally-funded and Federally-supervised.

The National Association of Federal-State Employees was founded in 1952 to represent 18 small groups of former Federal-State employees who have been passed over by both the executive and legislative branches while action has been taken to grant Federal retirement credit to other groups of employees in similar circumstances. We estimate that approximately 27,000 persons have already received this credit and that there are approximately 7,000 persons remaining in the 18 groups that we represent.

RECORD TO DATE ON FEDERAL RETIREMENT OF FEDERALLY-FUNDED STATE
EMPLOYEES

Congress, and on occasion, the Civil Service Commission, has recognized the right to Federal retirement credit of persons who have performed Federal functions on Federally-funded and Federally-supervised projects.

Congress, in 1955, approved S. 1041, which would have accomplished what we ask the Congress to accomplish now. Unfortunately, this equitable bill was vetoed by President Eisenhower on the mistaken assumption that it would set an undesirable precedent. Because of subsequent events, the proposed legislation is no longer a "precedent". After the veto, the Civil Service Commission again granted Federal retirement credit administratively to bring the total to approximately 12,000 persons, and in 1960 the Congress granted such credit to 15,000. Now only 7,000 remain. We have sought out all eligible groups to enlist their support and we come up with 7,000 as the maximum. If this bill, S. 1041, had not been vetoed there would be no necessity for this legislation. S. 1041 would have taken care of this bypassed group of people.

Just two years following the Eisenhower veto, new criteria for Federal retirement credit for such persons in the Agricultural Extension Service were approved by the U.S. Civil Service Commission through administrative action on September 30, 1957. Minute 2 of the CSC permitted employees in the U.S. Department of Agriculture to receive Federal retirement credit for previous state employment in the Agricultural Extension Service for their respective states. This credit had not previously been granted by the Congress nor administratively by the Commission. This was a step in the right direction by the Commission, but it stopped too soon, as it bypassed many equally deserving Federal employees, although it did along with previous administrative action of the Commission include some 12,000.

In 1960 the principle of Federal retirement credit was recognized by Congress once again with passage of P.L. 568, which, however, was limited to employees of County Agricultural Stabilization and Conservation Committees. This, too, was a step in the right direction as it covered approximately 15,000 additional persons not included in the earlier actions of the Civil Service Commission. But, like the administrative actions, it again stopped too soon, as it omitted some 7,000 other employees who were in the same situation.

H.R. 2745 is intended to grant equitable retirement to the remaining 7,000 employees who are in similar circumstances as the approximate 27,000 who have already obtained credit. It does not specify the 18 categories of employees which will benefit, but simply spells out the common denominator which qualifies these 18 groups because of their service in the employment of a state or political subdivision thereof in the carrying out of a program authorized by act of Congress, to be conducted in accordance with standards prescribed by Federal law, all or part of which is financed directly or indirectly by Federal funds. These 18 groups are listed at the end of this testimony and represent the intent of this legislation.

At hearings held on H.R. 4884 on June 18, 1973, testimony in opposition was offered by a representative of the Civil Service Commission who objected to the "open end" nature of the bill. He stated that there were 101 programs, including one miscellaneous program, in which the Federal Government gives aid to state and local governments. This testimony was in fact quite misleading, in that 41 of the 100 identifiable programs are composed entirely of Federal employees who are already included in the Federal retirement program; 22 are State employees who are unsalaried state commissions or councils and who could not meet the retirement criteria of the bill, while 37 are Federal-State cooperative programs included in the proposed legislation. This tactic was continued by the Civil Service Commission representative in his testimony of March 12, 1975. He alluded to 100,000 beneficiaries, although no specifics of this figure were given. He referred to employees of Lockheed and Bell, although the employees of private companies having government contracts could not possibly qualify as present Federal civil servants who were formerly employees of a state or political subdivision thereof, working in a Federal-State cooperative program, as required by the present bill.

However, in order to dispell the concern caused by such wild generalities, we want to emphasize that the present bill is intended to be limited to 18 specified categories, which include 37 Federal-State cooperative programs, embracing approximately 7,000 persons.

We are sure the Commission denies thousands of requests for Civil Service retirement that do not qualify under the law. It should continue to do so. However, it should also be consistent in its application of the law, its administrative rulings, and the intent of Congress. This, it has not done.

PROPOSED LEGISLATION: H.R. 4621 AND H.R. 2745

The purpose of the proposed legislation, H.R. 4621 and H.R. 2745, is to provide that service formerly rendered by a present Federal employee for a period when he was a state employee under a Federal-State cooperative program shall be creditable under the Civil Service Retirement System. As previously stated, the employees of 18 types of such service would be affected by the bill. What all of these groups of employees have in common is that (1) the function in which they worked was created by an act of Congress, (2) it was administered by a Federal department, and (3) it was financed wholly or in part by Federal funds.

We believe that this proposed legislation as contained in H.R. 4621 and H.R. 2745, is fair, equitable, and deserved for the following reasons:

(1) The reason for disallowing Federal retirement credit of the present group of employees in Federal-State cooperative programs is highly technical. Since 1944, many Federal employees working in Federal-State cooperative programs have been entitled to Federal retirement credit. All of the work done in these programs is done pursuant to a law enacted by Congress, administered by a Federal agency, and paid for in whole or in part by Federal funds. Disallowing this small remaining group results solely from the lack of an original Federal appointment. In this respect, they are not different from those employees of the Agricultural Extension Service who were granted Federal retirement credit by administrative action of the Commission on September 30, 1957, or those employees of County Agricultural Stabilization and Conservation Committees who were granted retirement credit by law in 1960, or those binational employees who were granted retirement credit by court action in 1974.

(2) Although it may have been true in 1955, when similar legislation was vetoed by President Eisenhower, that such legislation would constitute a "precedent", in view of the subsequent actions of 1957, 1960, and 1974, this is no longer true. At the present time the precedent has been set and the only object of the legislation would be to grant benefits to 7,000 persons similar to that which has previously been accorded to 27,000 persons in identical circumstances.

(3) The bills provide that those who wish to avail themselves of benefits must make a deposit into the Fund of contributions for the period of their past state service. As a result, any increase in the unfunded liability of the Civil Service Retirement Fund would be minimal. Following a visit to the Commission's staff at which time a request was made for an estimate of cost, we were informed by telephone on January 17, 1974 that the initial gross cost would be \$7,300,000 per year. This amount would equal .2 percent (two-tenths of one percent) of the cost to the retirement fund. Because of decreasing numbers coming into the government by this route, the cost will decrease annually. This is contrary to the Civil Service Commission's present claim that tens or hundreds of thousands of individuals would flood the Civil Service retirement roles, at a cost of hundreds of millions of dollars. Even though the number coming into the Civil Service retirement system under H.R. 4621 and H.R. 2745 is decreasing, it will not reach zero, because Federal agencies will continue to go to their Federal-State counterparts for recruitment of qualified Federal employees.

(4) The cost will be further lessened by the provision of the bills that the employee's civil service annuity will be decreased by the amount of any other benefit that he receives for the same service (such as a state annuity or Social Security).

(5) The beneficiaries would not only be required to make deposits into the Civil Service Retirement Fund, the bills are also limited to former State employees who thereafter became Federal employees, and who retire as Federal employees. In this respect, the benefits of the bills are less generous than those provided by the Congress in prior similar situations. Many persons who have previously been given the benefits of Federal retirement credit are not required to make deposits into the Fund for their service, such as credit for United States military service. Further, the state employees of Federal-State cooperative programs that were covered under the Retirement Act by the Civil Service Commission in 1944 and 1957, by the Congress in 1960, and by court action in 1974 receive Federal retirement credit even though they never became Federal employees.

FEDERAL APPOINTMENT BY A SUBSTITUTE PROCEDURE

The benefits of the Civil Service retirement program are intended to be available for work performed as a Federal employee. This has been defined by the Civil Service Commission to mean work performed by a person who:

(1) Is engaged in the performance of Federal functions under authority of an Act of Congress or Executive Order;

(2) Is appointed or employed by a Federal officer in his official capacity;

(3) Works under the supervision and direction of a Federal officer. (CSC FPM Supplement 831-1.)

State or local employees of a Federal-State cooperative program clearly meet tests 1 and 3. We do not understand this to be contested by the Civil Service Commission (the objector to the proposed legislation). The Commission's position is that these persons do not meet test 2, in that they did not have a Federal appointment. However, the Commission provided that persons not having a Federal appointment could be granted Federal retirement by its 1957 action, the Congress made eligible similar such persons in 1960, and the Court made eligible similar binational employees in 1974.

The administrative decision of the Commission in 1957 resulted from a test case involving Mr. Charles U. Pickrell, who served as an Extension Animal Husbandman for 11 years, from 1923 to 1934. He was an employee of the Arizona State Extension Service, which was Federally-funded, and operated under the direction of the Department of Agriculture, under the Smith-Lever Act. He was not a Federal employee, and his supervisor, the State Extension Director, was not a Federal employee, either. Although Pickrell had no Federal appointment, the Commission ruled, by a "minute" issued on September 30, 1957, that he and many other employees of the Extension Service should receive Federal retirement credit for state service rendered during any period in which the individual performed Federal functions under a Federal-State cooperative agreement, was under Federal supervision, and was named in a budget document formally approved by the Extension Service.

The fact that one's name is on a budget document is, of course, not the same as a Federal appointment, but was a substitute procedure provided by the Commission to grant retirement credit to state employees of the Extension Service. As stated before, this action ultimately affected many employees other than Mr. Pickrell. In our judgment it was wholly meritorious, but the Commission has refused to extend it to equally eligible former state employees of other Federal-State cooperative programs.

At hearings held on June 18, 1973 on H.R. 4884, a representative of the Civil Service Commission was asked whether prior actions of the Civil Service Commission extending Federal retirement credit to persons who had not been Federal employees violated the Commission's stated position that the benefits of the Retirement Act should be limited to Federal employees. The representative of the Civil Service Commission answered:

"No, sir. Any employee who has gotten retirement credit for service in the Agriculture Extension Service by administrative decision of the Commission is a person who clearly was a Federal employee as defined in 5 U.S. Code, Section 2105, during the period of that employment. The same is not true of these other groups."

We respectfully suggest that this statement was not accurate. The action taken by the Commission in 1957 clearly extended Federal retirement benefits to thousands of persons who were not Federal employees at the time.

On March 12, 1975, at a hearing on H.R. 2745, the representative of the Civil Service Commission was asked:

"Have there been many exceptions made in the [retirement] criteria?"

The representative replied: "Not administratively. There have been no exceptions other than the one that was mentioned here, Pickrell, going back a number of years."

Again, we respectfully suggest that this statement was not accurate. The action taken by the Commission in 1957 extended Federal retirement benefits not to just one person, Charles Ulen Pickrell; it extended them at the same time to many others as well who served under like circumstances.

While we are wholly in accord with the intent of H.R. 2745, we observe that its language is virtually identical with H.R. 4884 as originally introduced in the 93rd Congress. The bill was later completely rewritten by the Subcommittee, although the substance of the bill remains the same.

Because of the nature of the opposition of the Civil Service Commission, which is based primarily on inflated estimates of the number of Federal programs and the number of persons affected, and the cost which would be involved, the Committee may wish to give serious consideration to H.R. 4621, introduced by Congressman Harris, which specifically identifies the 18 groups of Federal employees that are intended to be benefited by the bill. This would obviate the possibility of

uninformed opposition by members of the Congress who are not acquainted with the facts. If the Committee prefers to use general descriptive language, rather than an itemization of the 18 groups, we respectfully urge that the Committee Report identify the 18 groups that are intended to be benefited. This would remove the possibility of the inclusion of large numbers of groups not within the intent of the Committee, and would also be a guide to the Civil Service Commission in its administration of the law.

We attach to this statement a list of the 18 groups that are the object of this legislation.

We shall greatly appreciate the Committee's attention to this matter.
Attachments.

THE 18 GROUPS THAT REPRESENT THE INTENT OF LEGISLATION

(1) The Federal-State Cooperative Program to inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce as authorized under the provisions of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627);

(2) The program of a State rural rehabilitation corporation created for the purpose of handling rural relief funds for which were made available by the Federal Emergency Relief Act of 1933 (48 Stat. 55), the Act entitled "An Act making an additional appropriation to carry out the purposes of the Federal Emergency Relief Act of 1933, for continuation of the civil works program, and for other purposes", approved February 15, 1934 (38 Stat. 351), and title II of the Act entitled "An Act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1934, and prior fiscal years, to provide supplemental general and emergency appropriations for the fiscal years ending June 30, 1934, and June 30, 1935, and for other purposes", approved June 19, 1934 (48 Stat. 1021);

(3) The Federal-State cooperative program of agricultural experiment stations research and investigation authorized by the Act entitled "An Act to establish agricultural experiment stations in connection with the colleges established in the several States under the provisions of an Act approved July second, eighteen hundred and sixty-two and of the Acts supplementary thereto", approved March 2, 1887 (7 U.S.C. 361a-361i);

(4) The Federal-State cooperative program of vocational education authorized by the Act entitled "An Act to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure", approved February 23, 1917 (20 U.S.C. 11-28);

(5) The Federal-State cooperative program of agricultural extension work authorized by the Act entitled "An Act to provide for cooperative agricultural extension work between the agricultural colleges in the several States receiving the benefits of an Act of Congress approved July second, eighteen hundred and sixty-two, and of Acts supplementary thereto, and the United States Department of Agriculture", approved May 8, 1914 (7 U.S.C. 341-348);

(6) The Act entitled "An Act to provide for the protection of forest lands, for the reforestation of denuded areas, for the extension of national forests, and for other purposes, in order to promote the continuous production of timber on the lands chiefly suitable therefor", approved June 7, 1924 (16 U.S.C. 564-570); the cooperative forest management program unauthorized by the Cooperation Forest Management Act (16 U.S.C. 568c and 568d); and operations under the Forest Pest Control Act (16 U.S.C. 594-1 through 594-5); and the predecessor programs of any Act referred to in this paragraph;

(7) The Federal-State cooperative program for the control of plant, pests, and animal diseases authorized by the subheading entitled "Federal Horticulture Board" under the heading entitled "Department of Agriculture" of the Act entitled "An Act making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June thirtieth, nineteen hundred and eighteen, and prior fiscal years, on account of war expenses, and for other purposes", approved October 6, 1917 (40 Stat. 374; 7 U.S.C. 145); section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a); a joint resolution entitled "Joint Resolution making funds available for the control of incipient or emergency outbreaks of insect pests or plant diseases, including grasshoppers,

mormon crickets, and chinch bugs", approved April 6, 1937 (7 U.S.C. 148-148e); an Act entitled "An Act to provide for regulating, inspecting, cleaning, and, when necessary, disinfecting railway cars, other vehicles, and other materials entering the United States from Mexico", approved January 31, 1942 (7 U.S.C. 149); the Act entitled "An Act to regulate the importation of nursery stock and other plants and plant products; to enable the Secretary of Agriculture to establish and maintain quarantine districts for plant diseases and insect pests; to permit and regulate the movement of fruits, plants, and vegetables therefrom, and for other purposes", approved August 20, 1912 (7 U.S.C. 151-154, 156-164a, and 167); the first paragraph under the subheading entitled "Enforcement of the Plant-Quarantine Act; under the heading entitled "Miscellaneous" of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and fourteen", approved March 4, 1913 (37 Stat. 854; 7 U.S.C. 155), insofar as such paragraph relates to the importation of certain plants for scientific purposes; the second, third, and fourth paragraphs under the subheading entitled "Enforcement of the Plant-Quarantine Act" under the heading entitled "Miscellaneous" of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and sixteen", approved March 4, 1915 (38 Stat. 1113; 7 U.S.C. 166); and section 11 of the Act entitled "An Act for the establishment of a Bureau of Animal Industry, to prevent the exportation of diseased cattle, and to provide means for the suppression and extirpation of pleuropneumonia and other contagious diseases among domestic animals", approved May 29, 1884 (21 U.S.C. 114a);

(8) The Federal-State cooperative program of the public employment service authorized under section 7 of the Act entitled "An Act to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," approved October 6, 1917 (40 Stat. 345); the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes," approved June 6, 1933 (29 U.S.C. 49-49k); and the provisions for employment service and unemployment insurance under title III of the Social Security Act (42 U.S.C. 501-504);

(9) The Federal-State cooperative program of highway construction authorized by the Federal-Aid Road Act, approved July 11, 1916, and the provisions of title 23 of the United States Code;

(10) The Federal-State cooperative assistance programs approved under titles IV and V, and titles I, X, XIV (after January 1, 1974, such titles I, X, and XIV become title XVI) of the Social Security Act (42 U.S.C. ch. 7, subchs. 1, 4, 5, 10, and 14), and under agreements entered into under section 221 of the Social Security Act (42 U.S.C. 421);

(11) The Federal-State cooperative program of vocational rehabilitation authorized by the Vocational Rehabilitation Amendments Act of 1954 (29 U.S.C. 31-42);

(12) The cooperative program of fish restoration and management authorized by the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved August 9, 1950 (16 U.S.C. 777a-777k);

(13) The cooperative program in wildlife restoration authorized by the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes," approved September 2, 1937 (16 U.S.C. 669-669i);

(14) The Federal-State cooperative program in marketing service and research authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and predecessor programs;

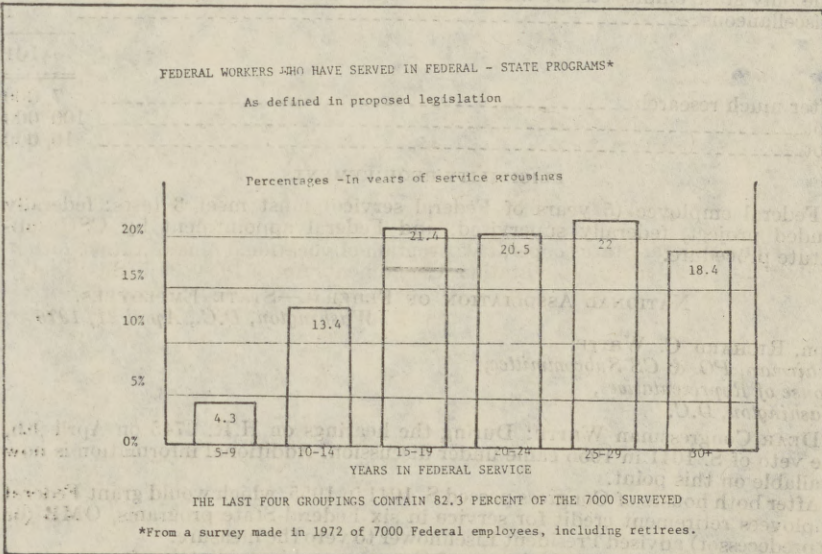
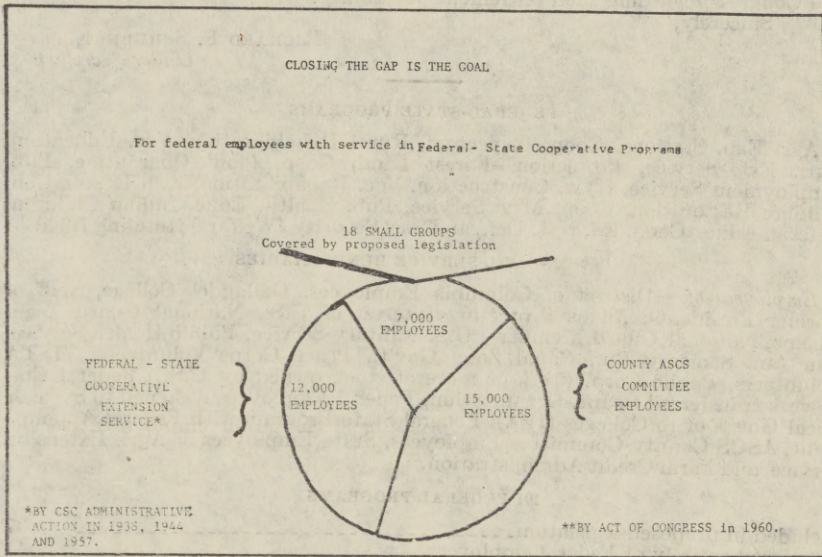
(15) The public health programs authorized by sections 309, 314, and 316 of the Public Health Service Act (42 U.S.C. 242g, 246, 247a);

(16) The program of aid to certain public schools for the education of Indian children authorized by the Act entitled "An Act authorizing the Secretary of the Interior to arrange with States or Territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", approved April 16, 1934 (25 U.S.C. 452-454);

(17) Instructors of veteran educational programs, including part-time instruction of veterans in on-the-farm training programs, as provided for in the Education of Veterans Act of 1944 and subsequent amendments and acts pertaining thereto; and

(18) Federal-State Cooperative Program of Elementary and Secondary Education authorized by "The National Defense Education Act of 1958 as amended,

and the Elementary and Secondary Act of 1965 as amended"; to provide for cooperation with the States in providing an opportunity for each young person to develop his talents, and for the improvement of Elementary and Secondary Education; approved September 2, 1958 and April 11, 1965, respectively.



WASHINGTON, D.C., February 4, 1975.

Hon. PAUL O'NEILL,
Deputy Director, Office of Management and Budget,
Washington, D.C.

DEAR MR. O'NEILL: Many employees of the Department of Labor have had prior State service in employment security programs funded in full by Federal grants-in-aid. These employees have long believed that such State service should be made creditable for Federal retirement purposes.

I now wish to place the Department of Labor on record as supporting the concept of retirement portability for Federally-funded State service.

This position is adopted as a matter of logic and equity, fully consistent with the Federal pension reform law now applicable in the private sector.

I will appreciate an opportunity to comment on legislative proposals made in the Congress regarding such retirement portability.

Sincerely,

RICHARD F. SCHUBERT,
Under Secretary.

FEDERAL-STATE PROGRAMS

Agr. Exp. Stations, Coop. Inspectors, Rural Rehabilitation, Voc. Education, Agri. Ext. Service, Protection—Forest Land, Coop. Plant Quarantine, Pub. Employment Service, Hyw. Construction, Voc. Rehabilitation, Fish Restoration, Wildlife Restoration, Coop. Mtg. Service, Pub. Health, Educ. Indian Children, Veteran Educ., Coop. Ed. Nat. Def., and Soc. Security (Welfare); totaling 7,000.

19 NON-CIVIL SERVICE BENEFICIARIES

Employees of.—District of Columbia Employees, Gallaudet College, Staff of Former Presidents, Aliens Protecting Interest of U.S., National Guard Technicians, National Guard Members, U.S. Military Service, Public Health Service, Pan Am. Sanitary Bu., Canal Zone Gov't., Peace Corps Volunteers, VISTA Volunteers, Public Corp. (51% or more of stock owned by U.S.), Federal Employees transferred to Int. Organization, Federal Employees Assigned to State or Local Gov't, or to Colleges (IPA), Federal State Program with Federal Appointment, ASCS County Committee Employees, State Employees of Agri. Extension Service, and Farm Credit Administration.

101 FEDERAL PROGRAMS

Included in proposed legislation.....	37
Composed entirely of Federal employees.....	41
The only state employees are unsalaried.....	22
Miscellaneous.....	1
	101
After much research.....	7,000
Not.....	100,000
Not.....	10,000

ELIGIBILITY REQUIREMENTS

Federal employee (5 years of Federal service) must meet 3 tests: federally funded project, federally supervised, and Federal appointment by CSC substitute procedure.

NATIONAL ASSOCIATION OF FEDERAL—STATE EMPLOYEES, *Washington, D.C., April 21, 1975.*

Hon. RICHARD C. WHITE,
*Chairman, PO & CS Subcommittee,
House of Representatives,
Washington, D.C.*

DEAR Congressman WHITE: During the hearings on H.R. 2745 on April 9th, the veto of S. 1041 in 1955 came under discussion. Additional information is now available on this point.

After both houses of Congress passed S. 1041 in 1955, which would grant Federal employees retirement credit for service in six Federal-State programs, OMB (or its predecessor) advised President Eisenhower to veto the measure.

Civil Service recognized the intent of Congress and immediately after the veto, began developing an administrative procedure to give credit for one group of the six in the vetoed S. 1041 bill. This group was the Extension Service. The final action by the Civil Service Commission was September 30, 1957, when their Minute two granted retirement credit for prior service of State extension employees.

This action by the Commission was correct and within their prerogative. We submit this for the record on hearings on H.R. 2745.

Sincerely,

RICHARD SCHROEDER,
President.

