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94-86 ALLOWANCES TO TEACHERS IN OVERSEAS
DEPENDENTS SCHOOLS

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HEARINGS
BEFORE THE
SUBCOMMITTEE ON
MENT AND EMPLOYEE BENEFITS
OF THE
COMMITTEE ON
OFFICE AND CIVIL SERVICE
HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

HR. 15003

A BILL TO REQUIRE THAT THE ALLOWANCES AVAILABLE
TO A TEACHER IN A DEPARTMENT OF DEFENSE OVER-
SEAS DEPENDENTS' SCHOOL SHALL BE PROVIDED WITH-
OUT REGARD TO THE LOCATION AT WHICH THE TEACHER
WAS RECRUITED

SEPTEMBER 14 AND 21, 1976

Serial No. 94-86

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Committee on Post Office and Civil Service



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RECOMMENDATIONS

Ms. Lynne Holland, president, Overseas Education Association, National Education Association:

(I) H.R. 15003 should become law to terminate the disparity and discrimination regarding the granting of allowances and benefits for approximately 300 U.S.-citizen career teachers employed overseas.

Ms. Linda Chavez, assistant director for legislation, American Federation of Teachers, AFL-CIO:

(I) A uniform benefit and allowance schedule should be enacted for Defense Department overseas teachers regardless of their place of recruitment.

(II) H.R. 15003 should include language to provide: (1) the granting of permanent employment status to teachers after 90 days; and (2) a teacher's entitlement to any allowance or benefit should not be determined by his place of recruitment nor his dependent status.

Mr. Walter F. Weiss, Director, Allowances Staff, Bureau of Administration, Department of State:

(I) Employees in like circumstances should receive all benefits and allowances authorized.

(II) The Department of State is opposed to H.R. 15003, a bill providing that all allowances made available to career status teachers shall be made without regard to the location at which the teacher was recruited or hired, because locally hired teachers do not have additional expenses generated by their Government employment.

Hon. Carl W. Clewlow, Deputy Assistant Secretary of Defense for Manpower and Reserve Affairs, Civilian Personnel Policy:

(I) Benefits should not be given to locally recruited teachers because: (1) it would be inconsistent with the intent of the law; and (2) it would constitute an unwarranted expense for the Government.

Mr. Edward Siemaszko, representative, Frankfurt Education Association, Half-Dac Committee:

(I) H.R. 15003 should be enacted with the following changes: (1) some phrase such as "regulations of any U.S. agency to the contrary notwithstanding" should be added to the sentence ending on line 3, page 2, of the drafted bill; and (2) the provisions of this bill should be made retroactive.

STATEMENT OF LYNNE HOLLAND, PRESIDENT OF THE OVERSEAS
EDUCATION ASSOCIATION, ACCOMPANIED BY MR. JIM GREEN

ALLOWANCES TO TEACHERS IN OVERSEAS DEPENDENTS SCHOOLS

TUESDAY, SEPTEMBER 14, 1976

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 9:15 a.m., in room 311, Cannon House Office Building, Hon. Richard C. White, chairman of the subcommittee, presiding.

Mr. WHITE. The subcommittee will come to order.

This subcommittee has convened this morning to begin deliberations on H.R. 15003, a bill introduced by myself as an initial response to the oversight hearings held by this subcommittee on June 15 and 16, 1976.

H.R. 15003 would require that the allowances made available to career-status teachers in a Department of Defense overseas dependents' school be provided without regard to the location at which the teacher was recruited.

This hearing is scheduled to be continued next Tuesday at 9:15 a.m. in room 304 of this building.

Subcommittee research shows that a major purpose of the various laws relating to the hiring of teachers for the overseas school system is to provide for uniform treatment to the extent justified by relative conditions of employment.

There is no specific reference within these laws stating that the point of hire or recruitment was, or is intended to be, construed as a relative condition of employment.

The laws do, however, declare that their purpose is to improve and strengthen the administration of overseas activities by facilitating the recruitment and retention of the best qualified personnel for civilian service overseas.

It is very difficult to believe that denial of benefits to those U.S. citizens who have had to meet the same high qualifications and standards for hire and have achieved career status but were recruited overseas, facilitates their retention.

Our first witness will be Ms. Lynne Holland, president of the Overseas Education Association, an affiliate of the National Education Association, and will be accompanied by Mr. Jim Green.

We're pleased to have you back again.

**STATEMENT OF LYNNE HOLLAND, PRESIDENT OF THE OVERSEAS
EDUCATION ASSOCIATION; ACCOMPANIED BY JIM GREEN**

Ms. HOLLAND. Thank you, sir.

Mr. Chairman and members of the subcommittee, I am Lynne Holland, president of the Overseas Education Association, a State affiliate of the National Education Association.

OEA represents approximately 6,500 of the 7,500 teachers in overseas dependent schools and has been certified by the Department of Labor as the exclusive representative at the national level for teachers located in the Atlantic, European, and Pacific regions.

Mr. Chairman, I appreciate this opportunity to appear before the subcommittee to express our full support of H.R. 15003.

On behalf of my fellow teachers who will once and for all be recognized as first-class citizens with the passage of this bill, I would like to thank you publicly for introducing H.R. 15003.

The majority of teachers employed in the Department of Defense dependents' schools—DODDS—system are hired in the continental United States.

According to Dr. Anthony Cardinale, Director of DODDS, there were 1,997 locally hired personnel in the system as of March 29, 1974.

Of this number, 1,745, over 85 percent, were dependents of either military or U.S. Government civilian personnel who were already receiving benefits provided to personnel employed overseas.

An additional 60 of the local hires were dependents of individuals working for private U.S. firms.

Finally, this left only 192 nondependent local hires who were employed in the DODDS system, less than 10 percent of the total number of local hires.

In June 1976, Mr. Clewlow said in testimony before this subcommittee:

"Last year, 1,468 teachers were hired locally. Of this number, 1,326 were dependents and only 142 were not. Thus, the bulk of the local hires, being dependents, already received housing support and transportation entitlement based upon dependency."

I assume that Mr. Clewlow was speaking of the 1974-75 school year.

It is also not clear whether some of the 192 were included in the 142 spoken of in the 1974 figures.

The OEA believes the total number of nondependent/self-sponsored local hires to be upwards of 300 worldwide who share the common plight of becoming a career teacher after March 1971 with a few exceptions.

Usually one would think of taking employment as a beginning. For the nondependent teacher, it is the Alpha and Omega as they shall forever be denied a living quarters allowance, transportation agreement, and post differential under the current discriminatory practice and policy of the Department of State standardized regulations.

Quarters allowances for overseas personnel are provided by statute. The Overseas Differentials and Allowances Act—Public Law 86-707—permitted allowances to all Government employees overseas, when applicable, but fell short by not defining "when applicable."

A second citing is, of course, the Defense Department Overseas Teachers Pay and Personnel Practices Act—Public Law 86-91, as amended—which specifically addresses “Quarters, Quarters Allowances, and Storage.”

I have provided all of section 7, so I will not bother to read that.

We do see under A that each shall be entitled; under B that each shall be entitled; and under C it then goes on to say may be authorized, et cetera, which leads to the referenced act of June 26, 1930.

I cited this for you because it is spoken to in section 7 of Public Law 86-91 as amended.

This language appears permissive rather than obligatory and therefore we find the State Department and the Department of Defense exercising “discretionary authority” over the entire matter of allowances.

When it comes to interpretation of the laws, I would like to point out that Public Law 86-707 was passed after Public Law 86-91 and Congress must surely have been aware of the law specifically applicable to overseas teachers when they addressed all Federal employees overseas allowances.

I can find nothing in the laws nor the regulations designed to carry them out which provides language or direction to support most of the identified categories of DODDS teachers and allowances they receive, with the exception of “substitutes”.

In section 101 of Public Law 86-707, we read:

The Congress hereby declares that it is the purpose of this act to improve and strengthen the administration of overseas activities of the government by:

1. Providing a means for more effectively compensating government employees for the extra costs and hardships incident to their assignments overseas.
2. Providing for the uniform treatment of government employees stationed overseas to the extent justified by relative conditions of employment.
3. Establishing the basis for the more efficient and equitable administration of the laws compensating government employees for the extra costs and hardships incident to their assignments overseas, and
4. Facilitating for the government the recruitment and retention of the best qualified personnel for civilian service overseas.

How are these stated purposes being met if teachers are denied equal benefits based on their “point of hire”?

In the June subcommittee hearing, Mr. Clewlow stated: “Since all employees abroad are faced with the same costs, this allowance is paid to all employees regardless of point of hire.”

That quotation related to the cost of living allowance. The obvious question is:

“Doesn’t housing cost the same for local and stateside teachers?”

Unfortunately, we know that other allowances and benefits afforded the stateside teacher are more expensive for the nondependent teacher—they must pay “out of pocket”.

Presently, the crux of the problem revolves around that place in “never never land” called point of hire. Department of State regulation 031.12 and the Joint Travel regulations are the basis for denial, not the laws.

Before 1971, most U.S. citizens were provided a housing allowance, unless they had been in the overseas area for 6 months or longer in which case they were counted as “foreign residents.”

Others who were traveling there for study, separating from military service, et cetera, were afforded conversion with benefits and allowances.

After March 1971, a person's point of hire became the sole factor for determining eligibility for allowances. Administrative decision of withdrawal closed the door for the teachers hired overseas.

Directly or indirectly, teachers are subject to regulations issued by the four bodies providing major benefits and allowances to overseas employees: Department of State, Department of Defense, Civil Service Commission, and the Federal system (as recently defined by the GAO).

We need help to affect change in these agencies and our help must emanate from Congress.

With passage of H.R. 15003 we will end disparity and discrimination regarding the granting of allowances and benefits for approximately 300 U.S. citizen career teachers employed overseas.

This concludes my statement, Mr. Chairman.

Mr. WHITE. Thank you very much. We appreciate your making this presentation this morning.

I might preface my remarks by stating that this is rather late in the session. I think it was good for us to introduce this bill and have these hearings.

We will see how far we can go this session. It's unlikely that under the circumstances we will be able to pass this bill this year, but it certainly will be laid up for next year so we can say we introduced it in the previous session and we had hearings.

But it depends on the attitudes of the full committee. It depends on the Senate and the possibility of getting a suspension; we'll see how it goes.

But in your examination of the bill as introduced, do you see anything in the bill that you feel you would want us to change or do you see anything that's not in the bill that you would like to see added to it that would be reasonable and it would be passed by Congress?

Ms. HOLLAND. Mr. Chairman, we have had in the past, I think, H.R. 5619, which was introduced in Congress. We've had several other bills that have come along, H.R. 9139, for instance.

H.R. 15003 is the very best we have had, because there were so many other things tied to H.R. 5619 and H.R. 9139 rather than just addressing the simple question of people receiving equal benefits for equal work.

Now, this is something we definitely feel very strongly about. We do feel discriminated against, and H.R. 15003 will provide for people, as I started out in my testimony, to say for once and for all, finally end the discriminatory practice of paying these people as second-class citizens right now and finally make them first-class citizens.

So we're very pleased and we do feel H.R. 15003 addresses the crux of the entire issue that has been in hand; and I can see nothing that could be added for NTE or local nondependent teachers.

Mr. WHITE. Now, in analyzing other statutes in existence and the wording of this bill, are you convinced that this bill would not be a duplication of benefits in that a dependent teacher whose husband or spouse is receiving quarters allowance, whatever other benefits, would not then draw in addition under this bill benefits?

Have you addressed yourself to that? Counsel feels that is the case. I was wondering what your analysis is.

Ms. HOLLAND. I just rapidly read again portions that I felt might address your question.

I would agree with counsel. I'm not an attorney, but I agree with counsel and believe with the way this is written and plugging it into the other act that there should be no problem.

Mr. WHITE. You aren't seeking duplication of benefits?

Ms. HOLLAND. Absolutely not, and I'd definitely like to go on record for that, for I cannot see any way that the Government should pay double benefits for people residing in the same household.

Mr. WHITE. Now, are you aware that elements of the Education and Labor Committee have some questions concerning this bill of some overlap jurisdiction?

I haven't resolved that, but I wonder if you were aware of that.

Ms. HOLLAND. Mr. Chairman, I've had no contact with that committee.

Mr. WHITE. There was a question raised at one juncture by one of the chairmen of the Education and Labor Committee, Mr. Dent of Pennsylvania about this bill, and I did not have the opportunity to sit down with him as he endeavored to do, but counsel feels that it has been resolved.

For the record, Counsel, would you like to state what that problem was and how it was resolved?

Mr. McCLUSKEY. Chairman Dent felt that this committee was fostering the hiring of local teachers overseas, and we pointed out to him that in our opinion this bill doesn't foster the hiring with new procedures in the Department of Defense, centralizing everything here in Washington; that bill requires that equal benefits be given to full career status teachers. If anything, this bill would limit the hiring of local hires overseas, because the Department of Defense would no longer be able to save the money on reduced benefits.

Ms. HOLLAND. I would agree with Mr. McCluskey in that summary, that I do believe that this will prevent the Department of Defense from hiring so many overseas teachers.

On the other hand, the 300 to date that we have been able to identify as not receiving benefits is not "so many." It just happened for a number of years.

I assume, Mr. McCluskey, that with respect to Mr. Dent that this was concerning the third provision of 13808 that he had introduced.

Mr. McCLUSKEY. Yes. You may wish to pick up the final copy for the record, because they will be submitting testimony for the record.

Mr. WHITE. Mr. Harris.

Mr. HARRIS. No questions.

Mr. WHITE. Mr. Jenrette, do you have any questions?

Mr. JENRETTE. I apologize for being late. I was in another meeting.

I basically agree with the bill and would not ask any questions at this time since I did not hear the statement; but I might ask permission to place in the record later my statement and maybe a question in writing from the witness, if it might be appropriate; and I apologize again for being late.

Mr. WHITE. Fine.

Do you have any questions, Counsel?

Mr. McCLUSKEY. No.

Mr. WHITE. Thank you very much. I appreciate your attendance this morning.

Mr. Green is a native Texan, as I recall. Am I correct on that, Mr. Green?

Mr. GREEN. Right, sir.

Mr. JENRETTE. We won't hold that against him.

Mr. WHITE. Our next witness is Ms. Linda Chavez, Assistant Director, Department of Legislation. That is with the American Federation of Teachers?

Ms. CHAVEZ. Yes.

Mr. WHITE. Fine. You may proceed.

STATEMENT OF LINDA CHAVEZ, ASSISTANT DIRECTOR OF LEGISLATION FOR THE AMERICAN FEDERATION OF TEACHERS, AFL-CIO

Ms. CHAVEZ. Mr. Chairman and members of the subcommittee, my name is Linda Chavez. I am the Assistant Director of Legislation for the American Federation of Teachers, AFL-CIO.

Thank you for extending to me the opportunity to address the subcommittee in support of H.R. 15003.

The American Federation of Teachers represents approximately 500,000 teaching personnel including members of the Overseas Federation of Teachers.

Our codirector of legislation, Carl J. Megel, has appeared before this subcommittee on many previous occasions to discuss the problems of overseas teachers.

During our most recent appearance in June 1976, we focused on what we felt was a discriminatory benefit schedule for teachers hired locally in Europe as opposed to those recruited in the United States.

At that time, we recommended that a uniform benefit and allowance schedule be enacted for Defense Department overseas teachers regardless of their place of recruitment.

We are pleased that you have introduced a bill to accomplish this, H.R. 15003.

Under present law, eligibility for benefits is determined by an employee's initial status. If a teacher was recruited in the United States, he is eligible for such benefits as a housing allowance, medical care, and post differentials.

If a teacher performing the same job was recruited locally, he is not usually eligible for those same benefits.

The AFT supports the language in H.R. 15003 which would end such a discriminatory practice.

However, there are two areas of concern to the AFT which are not addressed by the pending legislation.

Teachers hired locally are usually hired as temporary employees. Many of the problems which these teachers encounter result from their temporary status.

The AFT favors legislation which would grant permanent employment status to teachers after 90 days. Without such protection, local hires will never achieve parity with their fellow teachers.

In practice, locally hired teachers often remain in the overseas system for many years while losing each summer many of the benefits to which they are entitled during the school year.

Such teachers face job insecurity which weakens their morale and encourages attrition.

A second area of concern to us which is not addressed by the pending legislation is equal treatment for dependent personnel.

Many of those teachers who are hired locally are dependents of overseas military and other governmental personnel.

To deny them benefits available to all other personnel would negate the effect of H.R. 15003.

Therefore, the AFT recommends that the legislation make clear that a teacher's entitlement to any allowance or benefits not be determined by his place of recruitment nor his dependent status.

In such instances where a housing allowance is a factor, the AFT believes that the Department of Defense should follow the same procedure with dependent teachers as it does when both husband and wife are members of the armed services.

Once again, I want to thank you for allowing me to present the views of the AFT on the pending legislation and to commend the subcommittee for its efforts on behalf of overseas teachers.

Mr. WHITE. Thank you very much, Ms. Chavez.

Mr. HARRIS.

Mr. HARRIS. I have no questions, Mr. Chairman.

I appreciate the testimony of both witnesses. I think the bill has a lot of merit and I would compliment the chairman for moving ahead, and I think we should move ahead.

Mr. WHITE. Mr. Jenrette.

Mr. JENRETTE. Thank you, Mr. Chairman.

What is the percentage of local recruiting and overseas recruitments, or did you understand my question? What are the percentages, do you have any idea?

Ms. CHAVEZ. I'm not certain of the exact number. I understand from the hearings they had in June it was something in the neighborhood of 150 teachers in a certain status who felt that they were not receiving benefits equal to those of the personnel hired in the United States.

Mr. JENRETTE. How do you propose that the bill be amended to achieve the temporary employment flaw that you alluded to in your testimony?

I don't know how it can be done. I'd like to hear from you.

Ms. CHAVEZ. Well, I suggest that it simply be amended to make it clear that temporary employees became permanent employees after a period of 90 days from their initial hiring, and as I understand it, the current legislation does not address itself to this.

This has been an area of concern to us over a number of years and something we have argued about.

We feel to grant teachers hired only temporary status contributes to the fact that they are treated differently than teachers who are in the United States.

Mr. JENRETTE. What if a teacher was hired and after the school year started found that a particular project would only be available for 6 months or something of that nature; how would you handle that?

You don't move that person on permanently if there is no opening for that individual after this specific project, would you?

Ms. CHAVEZ. Well, it's my understanding that the problem is not with the teachers that are specifically hired for a temporary basis.

What happens is it's been our experience that teachers are hired in Europe for a temporary job, which job then becomes in fact permanent while the teacher is denied benefits that the full-time permanent employee would be able to benefit from.

Such things as the payment for the teacher to return to the United States during a certain period of time; being eligible to take additional courses to enrich their ability to teach.

These kinds of benefits are not available to temporary employees and until they become available, we don't feel that there's going to be an equality between the two groups.

Mr. JENRETTE. Your advice then to a teacher seeking employment overseas would be to stay here and work real hard in the United States and to be recruited here rather than to go abroad knocking on school doors abroad?

Ms. CHAVEZ. The difficulty with that, of course, is there is a great deal of unemployed teachers in the United States as well, and I think most of the people that are recruited overseas are not persons specifically who leave the United States and go to Europe seeking jobs as overseas teachers.

They are often people who have been employed in positions either with the Government or nongovernmental companies, or agencies and then find that they wish to leave those positions and remain in Europe.

They are faced with the prospect of continued unemployment or if they see a job with the Department of Defense as an overseas teacher are hired simply on a temporary basis, then that lends itself to much instability to these teachers' lives.

Mr. JENRETTE. Thank you very much.

Mr. WHITE. I'll ask a question, then go to Mr. Mineta.

I appreciate your testimony this morning, but I want to clear some of the statements you made here.

You suggest that included in the legislation be a provision that an overseas hire would be made permanent after 90 days.

Let's examine that. There is not provision presently for that. It is the discretion of the department as I understand it; and I feel perhaps that is not a fair status of the law.

But then there needs to be some change, but what is the relative degree? The bases overseas fluctuate in size, depending on the needs of the United States' defenses of Europe or elsewhere.

So the question is what would be a proper term. Now one suggestion was that a person be mandatorily made permanent at the end of the third year.

I'm wondering if perhaps 1 year wouldn't be proper. Don't you think 90 days is an awfully short time to actually establish whether or not a teacher is going to be effective and appropriate for the area? Whether she's really going to like the area to give her built in permanent status?

Ms. CHAVEZ. Well, I don't think that's the case in the schools in the United States, although there is abuse in hiring of temporaries in the United States, as well.

I sometimes see persons hired on a temporary basis who are really hired to perform a full-time, permanent job. It's usually done as a cost-saving device on the part of the school district in order to deny that teacher benefits available to full-time permanent employees and it's our feeling that it's a short term need that's being met with the large influx of students which are expected to disappear at a certain time that 90 days does give sufficient time for the school districts to determine whether or not there is going to be a permanent increase in the size of the class or not.

To make it 1 year, I'm not sure that that would in any way solve the problems that the school overseas faces. It would seem to me that it would be less easy if you hire at the beginning of the year and did not decide whether to make permanent until the beginning of the next year.

At that time it is when you would have again changes in class size, and it would seem that would be no more logical or reasonable on the part of the school overseas than a period within a school year such as 90 days.

Mr. WHITE. I wonder if you wouldn't also find that if you made a short term mandatory period, say 30 days, or 90 days or even a year that you would find the school systems overseas inclined not to rehire teachers because they don't want to put them on permanent status and go seeking continental hired teachers; whereas if they were temporary they might be more inclined to go along with them for a little longer.

Ms. CHAVEZ. Well, that's the rationale that encourages school districts in the United States as well to hire temporary persons; it is less expensive.

There are some cost-saving devices in hiring this way, but as an organization that represents teachers, we are obviously interested in representing the best interest of those teachers and would not want anything to work to the detriment of the teacher.

And the legislation as it now stands, which as you say is discretionary about that, and allows the department to determine when a person is going to be put on a permanent or temporary basis, it allows for so much discretion that it lends itself to abuse.

Mr. WHITE. In the States, isn't it the practice to require 1 to 5 years before there is 10 years of credit in the school system?

Ms. CHAVEZ. Of course this varies dependent on whether or not there are collective bargaining agreements.

Mr. WHITE. One other part of the testimony stated that you felt that to provide for benefits to the locally hired and not to dependents is discriminatory.

You inferred it would be discriminatory, yet it would not lead to duplication of benefits?

Ms. CHAVEZ. I was not able to find out in preparing my testimony, and I'm sure counsel could secure the information on what the department says as to normal procedures in relation to armed services personnel if a husband and wife—for instance both are employed in the armed services, do each of them receive an allotment?

Is the sum total of that allotment only equal to the amount that normally would be given to one? I don't know how that works.

It seemed to me that a fair method of taking care of this situation would be to follow the department's own personnel regulation in regards to armed services personnel.

Mr. WHITE. Well, I believe that would be to provide quarters allowance for a family, and not necessarily to duplicate the benefits, themselves.

Ms. CHAVEZ. If that's the case, then that would seem an equitable way of solving it.

Mr. WHITE. The testimony we have is speaking of local hires in Europe. Are there no local hires in Asia or other specific area?

Ms. CHAVEZ. No, I'm not really familiar with that. I was just using Europe.

Mr. WHITE. I notice no one mentioned possibly the Philippines or some other areas, but I'm sure there are some local hires in some other areas besides Europe.

Ms. CHAVEZ. That was an oversight.

Mr. WHITE. Thank you very much.

Mr. Mineta.

Mr. MINETA. I have no questions.

I apologize to the committee for being late and also to Ms. Chavez for being late.

Mr. WHITE. I want to take this opportunity to thank the committee for being very diligent in attending and pursuing legislation.

Counsel might for the record want to recite what the committee has accomplished. We may not have another opportunity to do so.

You might just summarize what the committee has done this year in this term.

Mr. McCLUSKEY. This committee and subcommittee has worked on the following bills:

Legislation appearing on full committee agenda

[As of September 13, 1976]

	<i>Number of bills</i>
Full committee.....	1
Retirement and employee benefits.....	20
Manpower and civil service.....	8
Census and population.....	¹ 13
Postal facilities, mail and labor management.....	6
Postal Service.....	3
Employee political rights and intergovernmental relations.....	1
Total bills.....	<u>52</u>

PUBLIC LAWS

Retirement and employee benefits.....	7
Manpower and civil service.....	² 2
Census and population.....	³ 7
Postal facilities, mail and labor management.....	2
Postal service.....	
Employee political rights and intergovernmental relations.....	
Total public laws.....	<u>18</u>

¹ 8 bills, proclamations—5 bills, census, statistics, archives.

² 1 awaiting President's signature.

³ 6 proclamations.

Number of bills on full committee agenda (2, Senate passed).....	52
Number of subcommittees.....	6
Average number of bills per subcommittee.....	8.6
Number of bills for retirement and employee benefits.....	20
Number of bills reported by full committee.....	46
Average number of bills per subcommittee.....	7.5
Number of bills for retirement and employee benefits.....	17

Mr. HARRIS. Mr. Chairman, as a matter of record, I don't think there should be any confusion on the point that the activity and the number of hearings and the amount of legislation considered, and the amount of legislation successfully enacted has nothing to do with the industry of the members of the subcommittee. It only has to do with the slave-driving characteristics of its chairman.

And I, myself, want to sincerely compliment the chairman for the tremendous energy and dedication he's shown to his responsibility as chairman of the subcommittee. I'm very proud to serve on it and wish to express to him my compliments for an extremely effective job.

Mr. WHITE. I want to say what we've done these 2 years I think is a prelude to what we can do in the future years, because I think now we have a handle in this whole area of retirement and ancillary jurisdictions we have.

I want to thank all of you again. There being no further business, the meeting is adjourned.

[Whereupon, at 9:50 a.m., the hearing was adjourned.]

The first part of the document is a list of names and titles, including the names of the authors and the titles of their works. The names are arranged in a column, and the titles are arranged in a column to the right of the names. The names are written in a cursive hand, and the titles are written in a more formal, printed hand. The list includes the names of several prominent figures in the field of literature and the arts, and the titles of their most notable works. The list is followed by a section of text that discusses the importance of these works and the impact they have had on the world. The text is written in a cursive hand, and it is organized into several paragraphs. The first paragraph discusses the importance of the works of the authors listed in the list above. The second paragraph discusses the impact of these works on the world, and the third paragraph discusses the importance of these works in the field of literature and the arts. The text is followed by a section of text that discusses the importance of these works and the impact they have had on the world. The text is written in a cursive hand, and it is organized into several paragraphs. The first paragraph discusses the importance of the works of the authors listed in the list above. The second paragraph discusses the impact of these works on the world, and the third paragraph discusses the importance of these works in the field of literature and the arts.

ALLOWANCES TO TEACHERS IN OVERSEAS DEPENDENTS SCHOOLS

TUESDAY, SEPTEMBER 21, 1976

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 9:20 a.m. in room 304, Cannon House Office Building, the Honorable Richard C. White, chairman of the subcommittee, presiding.

Mr. WHITE. The subcommittee will come to order.

This subcommittee has reconvened this morning to continue deliberations on H. R. 15003, a bill introduced by myself as an initial response to the oversight hearings held by this subcommittee on June 15 and 17, 1976. H. R. 15003 would require that all allowances made available to "career status teachers" in a Department of Defense overseas dependents' school be provided without regard to the location at which the teacher was recruited or hired.

Subcommittee research shows that a major purpose of the various laws relating to the hiring of teachers for the overseas school system is to provide for uniform treatment to the extent justified by relative conditions of employment. There is no specific reference within these laws stating that the point of hire or recruitment was or is intended to be construed as a relative condition of employment.

The laws do, however, declare that their purpose is to improve and strengthen the administration of overseas activities by facilitating the recruitment and retention of the best qualified personnel for civilian service overseas. It is very difficult to believe that denial of benefits to those U. S. citizens who have had to meet the same high qualifications and standards for hire and have achieved "career status," but were recruited overseas, facilitates their retention.

The first of three witnesses this morning will be Mr. Walter F. Weiss, Director, Allowances Staff, Bureau of Administration, Department of State.

The subcommittee has a joint statement submitted by Representatives John H. Dent, William L. Clay, and William D. Ford. That statement will be made a part of the record at this time.

(13)

[The statement referred to follows:]

JOINT STATEMENT OF U.S. REPRESENTATIVES JOHN H. DENT, WILLIAM L. CLAY
AND WILLIAM D. FORD

Mr. Chairman and Members of the Subcommittee, we appreciate your kind invitation to testify on H.R. 15003 and other matters affecting teachers in DOD overseas dependents' schools. As mentioned in your recent oversight hearings, our appearance here represents more than a superficial knowledge or passing interest in the DOD dependents' overseas schools. During the last eleven years, Subcommittees on which we have served and Mr. Dent has chaired (presently the Subcommittee on Labor Standards) have made periodic trips to overseas dependents' schools. Our inquiries encompassed every phase of the school system, with special emphasis on the adequacy of facilities, equipment, supplies, instructional materials, and the myriad problems of the teaching staffs. We issued several advisory reports which, in no small measure, assisted in effecting significant improvements in the DOD overseas dependent's education system.

Against this background, we appear here today to express our deep concerns about the possible ramifications of H.R. 15003 which proposes to permit the payment of certain fringe benefits to teachers hired at the locality of DOD overseas schools. We hope we can present a perspective on the importance of the career overseas teacher to the maintenance of educational excellence in the DOD overseas dependents' education system which will aid this Subcommittee in assessing the probable consequences of instituting the policy proposed in H.R. 15003.

During our school tours in the mid-60's, we received numerous teacher complaints regarding, among other things, inadequate housing; an inequitable salary structure; unwieldy pupil-teacher ratios; and the lack of logistical support. In many areas the impact of those adversities was evidenced by low teacher morale. However, the problems did not have any discernible effect on overall professional performance. In the main, teachers were competent, highly motivated, and exceptionally resourceful. The professionalism and restraint exhibited by teachers in the face of those adversities was due, in large degree, to the uniqueness of the overseas teacher recruitment and transfer program which provided a rewarding professional career, perquisites not generally available to stateside teachers and an opportunity for travel throughout the world. The overwhelming majority were determined to be career overseas teachers. They remained in the system and continued to petition for a resolution of their difficulties.

There has been an amelioration of some of the hardships experienced by the teachers. Other problems are in the process of being resolved and some have yet to be tackled. It is significant that neither the numerous adversities of the past nor the problems awaiting resolution have been sufficient to discourage an appreciable percentage of teachers from continuing as career overseas teachers. However, a more pervasive phenomena may succeed where adversities failed to diminish the ranks of the Overseas Teacher Corps. We are referring to the indiscriminate hiring of teachers, who, for various reasons, have established temporary residences in the locality of a DOD school or school complex. The proliferation of this practice throughout the school system has created great concern among our colleagues on the Education and Laboratory Committee. We feel that the perpetuation of this practice will severely impair the effectiveness of the DOD overseas dependents' education system by undermining the Overseas Teacher Corps and displacing career teachers with short-term teachers who will neither remain in the system nor become inculcated with the dedication to the system that is characteristic of the career overseas teacher. Moreover, it is our fear that a blanket provision of benefits to all locally-hired teachers, as contained in H.R. 15003, would have the effect of sanctioning a practice which has been documented as being counterproductive to the operation of this high-quality educational system.

The administrative and educational disruptions caused by disproportionate local-hire teacher staffing, particularly with spouse of military personnel, have been cited by our Subcommittee and the Comptroller General of the United States. Referring to intensification of local recruiting among spouse of military personnel, the 1973 Investigative Report of the General Subcommittee on Labor noted: "However, their teaching tenure is dictated by the duty assignment of their spouse. All too frequently the duty station transfers of the military spouse occur during the school year. The departure of the teacher causes disruption of teaching continuity and administrative difficulty in attempting to replace the teacher as

quickly as possible. Such a situation becomes particularly onerous on the students and the school when the proportion of local hires approaches an appreciable percentage of the teaching staff." In his 1974 Report to the Congress, "Problems In Providing Education Overseas for Dependents of U.S. Personnel," the Comptroller General stated that local hiring "adds unnecessarily to the turbulence caused by teacher turnover during the school year." He further observed that: "Local hiring of dependents in some localities has depleted the number of qualified personnel who previously were available when needed as substitute teachers."

There is another category of local hires whose eligibility for benefits raises serious questions. We have been privy to many instances where teachers, albeit qualified, were simply tourists who applied for and procured a teaching position. It would be impossible to document the number who remained in the overseas school system. We would hazard to guess it was not too many. Even if it was a significant number, persons who joined an overseas faculty with less than career intentions displaced career teachers awaiting transfers and career-oriented teachers whose applications had been pending in Washington for years. Granting benefits to such local hires does an injustice to the career teachers they supplanted, particularly the teacher awaiting transfer from some remote hardship area.

We respectfully recommend to this Subcommittee that before seeking to remedy the disparity in benefits, you should examine the effects on the various schools of staffs with disproportionate numbers of locally-hired teachers. Once you have made your own assessment, we think you will agree that the first priority is to bring a halt to the burgeoning local-hire teaching staffs and to legislate hiring guidelines which will restrict the number of local hires in any school. Mr. Dent's bill, H.R. 13808, has a provision which would limit the instances where local teachers can be considered for employment. The bill requires that any teaching position must be filled first by an overseas teacher awaiting transfer; second, a teacher recruited in the United States; and third, any other qualified applicant upon certification that a transfer or CONUS teacher is not available for the position.

We would be the last to oppose equitable treatment to an employee, especially an employee of the United States government. As we have pointed out, however, there is more to be considered here than just parity. We are contemplating the establishment of a policy that could exacerbate the orderly operation of an educational system which, by its very nature is beset with administrative and staff difficulties rarely, if ever, experienced in stateside schools.

Let us first assure the preservation of an Overseas Teachers Corps of professional educators devoted to teaching the children of the personnel serving abroad at the behest of their government. Then we can study the question of benefit equality.

Mr. WHITE. Mr. Weiss, you may begin.

**STATEMENT OF WALTER F. WEISS, DIRECTOR, ALLOWANCES STAFF,
BUREAU OF ADMINISTRATION, DEPARTMENT OF STATE; ACCOMPANIED BY REED STORMER, CHIEF, STANDARDS AND DIFFERENTIALS BRANCH**

Mr. WEISS. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before you today to express the views of the Department of State on H.R. 15003. The bill proposes an amendment to the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901 and following) by adding a new section 12. This provides that determination of a teacher's entitlement to any allowance or other benefit under this act (or under chapter 57 of Title 5, United States Code) shall be made without regard to whether the teacher was recruited outside or inside the United States. The President, by Executive Order 10903 dated January 9, 1961, authorized the Secretary of State to administer the allowances provisions of this and other laws on behalf of all U.S. Government civilian employees (including teachers) stationed in

foreign areas. The Secretary has prescribed implementing regulations for this purpose. These are contained in the standardized regulations (Government Civilians, Foreign Areas).

The Department of State fully supports the principle that employees in like circumstances should receive all benefits and allowances authorized. We believe that the standardized regulations issued by the Department support this principle within the intent of the law.

With respect to the proposed amendment contained in H.R. 15003, it is recognized that the purpose of the legislation is to grant to teachers, employed by the Department of Defense and hired in foreign areas for employment at the location where hired, the same allowances and differentials for which they would be eligible had they been hired in another location and assigned to a location in a foreign

U.S. citizens who already live in a foreign area for personal reasons and who are subsequently hired locally by the U.S. Government whether as teachers or in any other capacity do not have additional expenses generated by or owing primarily to their Government employment. Thus the reason for the quarters allowance incentive and other allowances (except post allowance, if any) is lacking in such instances, and these are not payable under the Government-wide Standardized Regulations.

Subchapter III (sections 5921 through 5925) of title 5, United States Code, codified the Overseas Differential and Allowances Act (Public Law 86-707, 86th Congress, H.R. 7758, September 6, 1960). This act contained a preamble citing its purpose, which reads in part as follows:

Sec. 101. The Congress hereby declares that it is the purpose of this Act to improve and strengthen the administration of overseas activities of the government by—

- (1) providing a means for more effectively compensating government employees for the extra costs and hardships incident to their assignments overseas,
- (2) providing for the uniform treatment of government employees stationed overseas to the extent justified by relative conditions of employment,
- (3) establishing the basis for the more efficient and equitable administration of the laws compensating government employees for the extra costs and hardships incident to their assignments overseas, and
- (4) facilitating for the government the recruitment and retention of the best-qualified personnel for civilian service overseas.

Senate Report No. 1647, 86th Congress, preceding enactment of P.L. 86-707, stated on page 2 in regard to quarters allowance:

Either a quarters allowance or free government quarters are furnished to each American citizen civilian employee living in a foreign area by reason of his employment by the U.S. Government.

It thus seems clear from the legislative history of the present section 5922 of title 5 that it was the Congress intent that differing employment conditions of U.S. citizen civilian employees in foreign areas be considered in determining their eligibility for allowances and differentials. The Department of State supports this original purpose of the legislation and thus opposes H.R. 15003.

This concludes my statement, Mr. Chairman. I have with me this morning Mr. Reed Stormer of the State Department's allowances staff. We shall be happy to answer any questions which you or other members may have.

Mr. WHITE. Let us go back to your statement indicating that the State Department is opposed to the amendment. Now, I think, perhaps, this needs to be analyzed a little.

Now, you are assuming that overseas hired are there because they are the spouse or dependent of a Government employee already receiving an allowance. Is that correct?

Mr. WEISS. No. Overseas hire may be anyone; somebody who may be in Europe, or throughout the world in some foreign area and who may be there for various reasons. Oftentimes, it may be the wife of an American businessman who has a teacher's credential. Or, it could be a set of circumstances where an individual is living abroad. He hears that there may be an opening in a dependent's school. He may go down and talk to the principal. If he was a qualified teacher, he may be doing graduate work in a foreign area. There are various reasons that he would be living abroad.

He may hear that there are employment opportunities. He may go and talk to the principal. He may be hired. This is what we mean by local hires.

Mr. WHITE. OK.

Let us talk about the individual that is traveling. Now, you say that the individual that is hired in the United States has additional expenses that the person who is overseas already does not have. Is that the way I understand your statement?

Mr. WEISS. Yes; that is the basic philosophy, from the Department of State point of view. It is our opinion that the reason why what we call living quarters allowance, or the Defense Department may call living quarters allowance or free quarters abroad, was originally initiated by the Congress was for the simple reason of recruitment and retention. For a civilian employee working for the Federal Government, the inducement to go abroad or the "overseas premium" is what is called free quarters or living quarters allowance. This living quarters allowance is what in our bureaucratic terms is a critical allowance. It is a recruitment and it is a retention device. It is the financial inducement to go abroad.

Mr. WHITE. OK. Let us talk about this now.

A person that is hired in the United States is given moving expenses and travel expenses. Am I correct?

Mr. WEISS. Yes.

Mr. WHITE. The person that is hired overseas does not get that moving and travel expense. This bill that we have does not say they are to get moving and travel expenses, does it?

Mr. WEISS. No; it does not.

Mr. WHITE. OK, so that is aside.

Now, let us talk about, then, the quarters allowance as an incentive. Under this bill, those hired abroad would get the quarters allowance. Those hired in the United States would get the quarters allowance.

Mr. WEISS. Right, sir.

Mr. WHITE. OK.

The person that is traveling in Europe decides to go in to apply for a job does not have established quarters, do they?

Mr. WEISS. He may or may not.

Mr. WHITE. Do you really believe that anyone hired in the United States is less likely to go because someone abroad, who is hired abroad, is also getting the same allowances?

Mr. WEISS. No.

Mr. WHITE. Then where is the disincentive?

Mr. WEISS. The incentive is——

Mr. WHITE. Do you see my position?

Mr. WEISS. I can understand your point of view.

Mr. WHITE. It is not a point of view. It is logic. You are saying to this committee, and to America, that because someone abroad, who is hired abroad, is going to get quarters allowance, you are going to have a disincentive to a person in this country. But you said no, that is not true. Then why not give these persons abroad quarters allowance, because they have that expense? You are not going to dissuade anyone who is hired in this country from going abroad. The incentive still rests with those hired in this country by giving them the allowance. Is that not true? So, where is the illogic?

Mr. WEISS. The system——

Mr. WHITE. I am not talking about the system. I am talking about the logic.

Mr. WEISS. We have established standardized regulations based upon the 1960 act of Congress. It is our interpretation of the actual legislation, and the legislative history of that bill, that it was Congress intent—which we have attempted to implement in our standardize regulations—that the living quarters allowances is based upon or it was given to the various executive branch employees. Living quarters were provided so that for recruitment and retention of civilian employees serving abroad, whether they be teachers, whether they be foreign service officers in the Department of State, whether they be flight controllers——

Mr. WHITE. But you have already said that is not going to eliminate this. This bill would not eliminate that incentive.

Mr. WEISS. That is true.

Mr. WHITE. So all you are saying, really, is because you have got a regulation and some history, that you do not think we ought to give quarters allowance to persons who really may not have quarters involved. Is that not true? Is that not what you are saying? Do you see the illogic of it?

We in Congress make the laws. And if we make a new law, then it is our legislative intent that the people abroad have it.

Mr. WEISS. I wholeheartedly agree with that, Mr. Chairman.

Mr. WHITE. You see, we are not strapped to some regulation in the past. We are looking to fairness. We are looking at what is equitable. And do you not agree it is equitable to give someone who is abroad a quarter's allowance that would otherwise be out of their pocket, for doing the same job that their counterpart, who happens to be by happenstance hired in the United States, has?

Mr. WEISS. The way you have discussed it, I can understand this point.

But, you can possibly get into another situation, and that is with respect to local hires abroad, and the proper management of a system of local hires; whether it be in the Defense Department dependent school system, or in the State Department with local hires of Americans abroad.

Mr. WHITE. Give me an illustration of your problem.

Mr. WEISS. The hypothetical situation is, a principal may know a teacher back in some school system in the United States. I like you, I think you are a great eighth-grade science teacher. It looks like we may have something coming available.

This teacher shows up in Bangkok, or shows up in Taiwan, or shows up in Germany, and is hired locally. Now, he would go through a Defense Department system—I mean, an employment system—and he may be qualified. He may be an excellent teacher, and he may be the best thing that has ever happened to the eighth-grade science classes.

On the other hand, there is a whole system back in the United States for the recruitment of teachers.

Mr. WHITE. You have got two systems. You have got one for overseas, and one in this country. Let us either eliminate overseas hire, or give them equal treatment. You have got two systems, not just one. You are not dissolving any system; you have already got it. Just because you work where you are, you think you should get less than the person who works across the street, if you are doing the same job?

Mr. WEISS. My understanding of the situation is and it is the best possible solution to have some type of centrally located hiring for the Federal Government. Now, in the Department of Defense, in the dependent school, they must have some leeway for local hires abroad—where the wife of an Air Force captain may be assigned to Aviano Air Base and she is a teacher. They must factor in a certain number of local hires. And in this category of dependents, the wife—or, if it is a major in the WAC Corps, her husband may be an excellent teacher. The Defense Department may be able to factor in or estimate how many dependents are abroad that will be eligible under DOD standards to teach in schools.

This is how they organize themselves. All I am talking about is from a Department of State perspective.

Mr. WHITE. Well, let us look at it another way.

You are a taxpayer. Do you like to save the Government money?

Mr. WEISS. Of course.

Mr. WHITE. What do you say when you happen to have a system in which you can also hire overseas? You are saving travel allowance, and if you happen to hire a dependent, you are saving quarters allowance, are you not?

Mr. WEISS. Yes.

Mr. WHITE. So, what is so great about hiring a person in this country to save money for the United States Government?

Mr. WEISS. From my point of view?

Mr. WHITE. If it is a qualified teacher, an equal teacher.

Mr. WEISS. That is the footnote. I can understand, in many respects, I appear to be, sort of bureaucratic mouse. Or it appears we have no sense in terms of saving money. I would not argue with you on this point, that in those specific cases, as you set up the problem, you are going to save the taxpayers money.

Mr. WHITE. Suppose, under the present system, as you call it, you hire an overseas teacher; a teacher from Europe, say, that is

already there. Now, as I understand the system, is it not true that if she is an overseas hire, or he, they number one do not receive any quarters allowance; and then, the fact is, as I understand it, they will never receive a quarters allowance, or at least for 11 years.

Now, what is the logic of that, if the person has been in the system for years? Just because she happens to be hired overseas—what kind of a game are we playing?

Mr. STORMER. Mr. Chairman?

Mr. WHITE. Would you identify yourself?

Mr. STORMER. I am Reed Stormer from the State Department. I guess we covered this ground before, but the teacher who may have been there many years was originally found or determined to be there for personal reasons other than her government employment as a teacher. And the prevailing philosophy for 16 years has been that your personal presence in the area does not provide you government benefits. If the government job takes you to that area, if you are moved to that area, or if you are brought to that area by the government, then you may have quarters and other allowances.

Mr. WHITE. Because you joined the State Department of your own free will, should you be penalized because you came to a certain place to be hired? Are you to be penalized because a person happens to be in Europe for personal reasons; should they be penalized?

Mr. STORMER. Well, this has been the thinking on the subject for some time.

Mr. WHITE. I am just asking about the logic. That is what this whole thing is about, is the logic of it, and fairness; not bureaucracy. You understand that before 1971, I understand, all teaching personnel were generally given quarters. Then, by a regulation, it was stopped. Is this true?

Mr. WEISS. This is true. There was a regulation that handled certain people that were traveling through Europe. I would call them tourists, students studying abroad—and we eliminated that section of the regulations at the request of the Defense Department in 1971.

Mr. WHITE. Why?

Mr. WEISS. The reason why? There were certain cases where they could determine that these people were "tourists" or actual students abroad, or studying abroad. But from what we understand, or what the Defense Department's position was in 1971, the vast majority of these local hires were in sort of a grey area. You could say they may be tourist or they may be not, and that led to certain types of complaints and certain grievances from those teachers who were ruled ineligible for the living quarters allowances.

So, it was at the request of the Defense Department that we dropped this regulation.

Mr. WHITE. Well, I thought we were encouraging people to go abroad. And if a person goes there by choice and likes the country, and gets acquainted with the country, what is so stigmatic about being a tourist?

Mr. WEISS. Nothing, as far as I am concerned. I am explaining the historical reasons why that section—

Mr. WHITE. I do not see the sense of it.

Mr. WEISS. They were obviously having trouble in the Department of Defense determining who and who is not eligible. Those that were a

clear cut yes or no, did not create problems. From our understanding of the situation, the majority were in a gray area where the determination was very, very difficult to make. If they fit under this category of the regulations—

Mr. WHITE. If a soldier is recruited abroad, is he treated differently in the service than a soldier who is recruited in the United States? Does the Defense Department make that distinction?

Mr. WEISS. I do not believe so.

Mr. WHITE. Well, I do not think the Defense Department's being consistent.

Well, all right. This is philosophical.

Mr. WEISS. Just a final point, and this is the reason why we come on as the "heavies" in the State Department with respect to this. It gets back to I guess some type of centralized recruitment procedures. It is often better to handle recruitment from a Washington perspective where everyone has an equal opportunity to apply. There is a whole series of interviews or testing that goes on, and overseas hires do not necessarily have to go under the close scrutiny that a U.S. applicant faces.

Mr. WHITE. Is that not just purely a matter of changing the procedures abroad? They can test them abroad as well as they can test them in this country, can they not?

Mr. WEISS. It is oftentimes extremely difficult to set the same procedures.

Mr. WHITE. Why?

Mr. WEISS. It just is, sir.

Mr. WHITE. Just tell me why.

Mr. WEISS. Let me cite you an example, and we run into the same problem. This is a straight State Department problem. Somebody who is living abroad can take a foreign service exam. Ultimately, he has to come back to the United States even though he may be given the oral exam overseas. He becomes eligible, and goes on a register. And at some point, he is called by the State Department saying your name has come up on the register and you are going to be hired. Come back to Washington to start your work.

In other words, there is a process that the applicant goes through.

Mr. WHITE. But you come back here for training?

Mr. WEISS. Right

Mr. WHITE. But when a teacher is certified, you do not necessarily have to go through training abroad, or you do not go through training in this country before you are hired for overseas, other than your certification. The State Department has a specialization. If the State Department is so concerned about hiring overseas, and directs you to offer less benefits to these people overseas, then why does the DOD pursue such an active recruitment program abroad?

Mr. WEISS. Because, based upon either civilian or uniformed personnel abroad who would have wives that would be eligible, that would be certified, and that would have had experience teaching.

Mr. WHITE. Then why do we not say we will not hire any more tourists, if they think they are such secondary teachers? The fact is that the Department of Defense advertises for teachers abroad, advertises in a manner that they expect tourists to come in. So that is why I cannot understand why they have such an ambivalent pro-

gram, frankly. I am not fussing at you; I am just fussing at the system, because I think the system is wrong. And that is why we are here today.

Mr. Jenrette?

Mr. JENRETTE. Thank you, Mr. Chairman.

Do I interpret from your testimony that you made these changes as far as the teachers abroad were concerned pursuant to the Executive order that was issued on January 9, 1961? Am I following you?

Mr. WEISS. It was not just teachers abroad. Our standardized regulations are what you would call Executive branch-wide. Within each agency or within each department, they establish their own regulations that are much more explicit than what the Department of State generally interprets in the standardized regulations. This is worked out in conjunction with other agencies. They generally interpret those benefits, or those standardized regulations, in the allowance sphere for all civil service and foreign service personnel abroad.

Within the standardized regulations there was a special regulation prior to 1971. And within that regulation, however, the Department of Defense interpreted our regulation and spelled it out more clearly. They were able to give living quarter allowances for certain types of teachers hired abroad. In 1971, the Department of Defense asked us to drop it, because it was difficult to operate or to manage. Therefore, we dropped it from our standardized regulations.

Mr. JENRETTE. Do you know the percentage of teachers that are hired abroad as to those that are hired in-State in the last year or so?

Mr. WEISS. My understanding is, just looking at the June testimony of the Department of Defense, that it was roughly I think 7,700 teachers. And—I do not know which year I guess it was 1975-76, of those 7,700 teachers, roughly 1,300 were locally hired abroad. And there is a difference in some of the testimony before this committee.

Last week, the woman from the overseas program said she estimated roughly 300 teachers were ineligible as local hires abroad.

Mr. WHITE. Would you suspend one moment? I have to testify before another committee. Mr. Jenrette, would you take over the chair, please?

Mr. JENRETTE [presiding]. Following up what Chairman White said as to your advertising abroad, could this give leeway to less-qualified teachers in your advertisements, or in your advertising for teachers?

Mr. WEISS. Could you ask the Department of Defense witness that? I do not know how they advertise abroad. I am just unable to answer with respect to this kind of question on the specifics of how they handle the program.

I can just say, as an aside, that the Department of State has what we call 100 American citizens right now on our rolls that are locally hired, and are under the current standards ineligible for living quarters.

Mr. JENRETTE. Thanks. I will have some questions later. Mr. Taylor?

Mr. TAYLOR. Thank you.

Mr. WEISS, these teachers that are hired abroad; is it your judgment that they go overseas with the specific idea of being hired as teachers?

Mr. WEISS. I think the vast majority of teachers—and this is based upon my understanding of the Department of Defense de-

pendents school—the vast majority of the teachers that are locally hired appear on the scene as either a dependent spouse of uniformed personnel serving abroad or of a civilian employee who is assigned overseas. And he may be an engineer, or he may be in some other category who is assigned to some military post abroad. His wife is a qualified teacher, and is hired locally.

Mr. TAYLOR. But would it not be clear that if it was military personnel, that they would probably already be furnished housing by the Federal Government?

Mr. WEISS. Yes. This is not my understanding of the problem. The problem is this small group—and the numbers differ from roughly 140 up to 300 individuals who do not get living quarters allowance at all, because they do not fall under some other dependents rights of the primary employee abroad.

Mr. TAYLOR. But if they were not, in terms of this bill, if they did have dependents' rights, and were being furnished housing allowances, then they would not get a double dip, would they?

Mr. WEISS. Generally, no, although you are getting into a unique area here. And this is where you have—well, this is maybe just a straight State Department problem, where you have both husband and wife who are foreign service officers. And they can opt one way or the other on a living quarters allowance. They can either individually get them, or they can get them as a family unit. And so, this is a unique area.

The woman who is a foreign service officer, who may be married to the male foreign service officer; they can go either way. They can go for their individual living quarters allowance, or they can go with what we call the family allowance in other words, individually they can dip. Now, if they have children, no they both cannot claim the children.

Mr. TAYLOR. What if husband and wife are both teachers?

Mr. WEISS. I am not certain.

Mr. STORMER. I think the regulations would permit this for any government employee.

Mr. TAYLOR. Have you ever considered hiring only stateside?

Mr. WEISS. Well, generally, State Department only hires on the stateside. You get into some certain unique situations at certain posts overseas where wives may be hired based upon the need for, generally speaking, her secretarial skills or someone that can type or someone that can file, and so you find that dependent spouses of State Department employees may be hired locally.

Mr. TAYLOR. Do you believe that the law at the present time, or it was the intent of Congress that all of these people receive these allowances? Do you think the regulations have circumvented the intent of Congress by changing this?

Mr. WEISS. No; I personally don't believe that.

I believe, Mr. Taylor, that we have attempted to implement congressional intent, the legislative history of the bill, and this is where we are.

Now, if it is the will of Congress, if it is the wisdom of Congress to change and to include any category, locally hired teachers, we will implement what Congress passes, and we will implement the regulations in our standardized regulations.

Mr. TAYLOR. But I am just trying to verify in my own mind what these people are doing over there, where they are living, what their situation is.

You have pointed out that many of them may be wives or possibly even daughters of service personnel, or sons, whichever the case may be. But it would seem that they are there. They went there of their own free will and accord. And I can certainly appreciate the concern that the Chairman has, that it looks like maybe we have discriminatory practices, where some teachers with the same qualifications receive housing allowances and other don't. However, by the same token, I think that I can see the position of the Defense Department and you people in saying that, well, you were there, we hired you, and it was not a part of the incentive to get them there, to furnish housing. They were there in that place to begin with. It is kind of a gray area, really.

Mr. WEISS. It is a problem. And then the next step is, if you are going to put into a special category teachers other locally hired Americans will ask for equity. There is no question, from the State Department point of view, from parents in the State Department or parents in the Department of Defense or the Department of Agriculture attache abroad that a critical area is the education of their children, whether they are in an international school or whether they are in a dependents school of the Department of Defense. Education is a critical issue.

Mr. TAYLOR. Mr. Weiss, do you know what the average allowance is for one of these teachers?

Mr. WEISS. I don't. You are going to have to ask the Department of Defense this.

Mr. TAYLOR. You don't know how much money we are talking about?

Mr. WEISS. No; I don't.

Mr. TAYLOR. I believe that's all, Mr. Chairman.

Mr. JENNETTE. As I understand it, Public Law 86-91, passed July 17, 1959, created a separate category for teachers. As I understand your testimony, you are saying that you have lumped them with everybody. Under the 86-707, which was passed in 1960, or a year later, the teachers are separate, as I understand the law.

Mr. WEISS. My understanding of the situation is that the public law, the 1959 law, was much more oriented toward Department of Defense schools and in what are Department of Defense controlled foreign areas—and by this I mean the Panama Canal Zone, and certain foreign territories. The law passed in 1960, because it was much more broadly oriented than the law of 1959, was the allowance precedence with what we understand the intent of Congress to be in 1960. And, therefore, for 16 years we have been organized along those lines, and that the 1960 law on allowances dealt with those civilian employees in what are considered worldwide assignments. There are distinctions within the Executive Branch that there are certain foreign areas that are really Department of Defense designated, or they are in a special category; they are not domestically within the United States, but they are not worldwide. We believe that the allowances structure of the law passed in 1960 controlled or was the overriding legislation because the 1959 law was much more with respect to only Defense Department situations.

Mr. JENRETTE. Well, even taking that premise, in the 1960 law nowhere does it specifically mention that allowances are to be based upon where one is recruited, hired, or anything.

In fact, it says, if I might quote: "The allowances and differentials authorized by this subchapter may be granted to an employee officially in a foreign area who is a citizen of the United States."

The word "may" may give you some out, but I don't follow you.

Mr. WEISS. Well, it is back on the bottom of page 2 and 3 of my statement, which I did not read. This is where we interpret the law, the preamble citing its purpose. And it is providing for the uniform treatment of Government employees stationed overseas to the extent justified by relative conditions of employment.

And then if you move to the top of page 4, what we understand from the Senate report that was attached to the bill, either a quarters allowance or free Government quarters are furnished to each American citizen civilian employee living in a foreign area by reason of his employment by the U.S. Government.

Mr. JENRETTE. That doesn't say each American citizen only recruited or hired in the United States.

All right, let me go on to one other thing, the act and this bill which amends 8691, the Overseas Payment and Personnel Practices Act, which is solely and specifically directed at the treatment of United States teachers in overseas schools.

It is not this committee's intent to change the general direction of the law directed to all of the employees overseas. We apparently have some disagreement here between the 1959 interpretation and the 1960 interpretation because of the word "may," but we are interested only, in as far as this bill is concerned, in the teachers. And I would like to recommend that in your future studies—and obviously we aren't going to be able to pass the act this year you reanalyze the 1959 and the 1960 act.

It is my belief—that the 1959 act was intended specifically for teachers, and the 1960 act was an overall umbrella. I think the intent of Congress, as I read it, was that the teachers were in a special category. And it would be interesting to see how the 435 members of Congress next year interpret the word "may."

Mr. WEISS. OK. Very good. We will reanalyze it.

Mr. JENRETTE. Thank you very much for appearing.

Mr. Carl Clewlow?

I think you have been with us before, and we are happy to have you back, sir.

STATEMENT OF CARL W. CLEWLOW, DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS (CIVILIAN PERSONNEL POLICY); ACCOMPANIED BY DR. ANTHONY CARDINALE, DIRECTOR OF DEFENSE OVERSEAS DEPENDENTS SCHOOLS, AND WILLIAM F. COAKLEY, OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS

Mr. CLEWLOW. Mr. Chairman, members, and counsel of the subcommittee, I have a short statement this morning which I would like to read.

I appreciate the opportunity to again meet with this subcommittee to provide information concerning the Department of Defense's position on this bill and to answer such questions as may be asked regarding this matter.

Since I have recently testified before this subcommittee on this subject, my statement will be brief.

Accompanying me to assist in answering your questions are Dr. Anthony Cardinale, Director of Dependents Schools, Department of Defense; and Mr. William F. Coakley, Personnel Management Specialist, Office of the Deputy Assistant Secretary of Defense, Civilian Personnel Policy.

H.R. 15003 would establish by law the eligibility of teachers who were recruited outside the United States for free quarters and other differentials and allowances, and for certain transportation benefits, which are authorized by title 5, United States Code.

It appears that the intent of this bill is to overcome the general restrictions contained in regulations on providing free quarters or payment of allowances and differentials, and granting a transportation agreement to locally recruited U.S. citizens who were already present in the area at the time of employment.

In this respect, this bill is very similar to several other bills that have been introduced in the Congress and upon which I have previously testified.

As I have previously stated, it is our belief that the benefits in question were intended to be recruitment and retention incentives and that they would only be offered when necessary to attract or retain an employee to a foreign area. In our way of thinking there is no justification for payment of a recruitment incentive where an individual has already taken up residence in a foreign area for his or her own personal convenience prior to being employed by the United States. Offering these benefits under these circumstances would not only be inconsistent with the basic intent; it would constitute an unwarranted expense to the Government. For this reason, we are unable to support this bill.

It was brought to our attention during the recent oversight hearings on this subject that one of the perceived problems was that not all local hires are told or they don't understand at the time they are employed that they are not eligible for and will not receive these benefits. At the suggestion of one of the members of this subcommittee we have devised a statement to this effect which will be given to and will be signed by each locally hired employee. Thus, these locally hired employees will be accepting employment with the full knowledge and understanding that they will not receive these benefits. This should eliminate this problem as well as remove any future cause for complaint that these employees may have.

That concludes my statement. We will be pleased to answer any questions you may have.

Mr. JENRETTE. Do you have a copy of the statement that you submitted to the local recruitment people that we could have for the record?

Mr. CLEWLOW. We have a sample form we can submit for the record, Mr. Chairman.

[The form referred to follows:]

SAMPLE FORM

TO: (Name)
(Address)

The following information pertains to certain benefits to which you may or may not be entitled as an employee of the Department of Defense Dependents Schools.

_____ A determination has been made that you are eligible to negotiate a transportation agreement in accordance with the provisions of the Department of Defense Joint Travel Regulations, Volume 2. The benefits and responsibilities of this agreement are briefly described on the agreement form and a member of this office will provide you with further information upon request.

_____ No determination has been made that you are eligible to negotiate a transportation agreement in accordance with the provisions of the Department of Defense Joint Travel Regulations, Volume 2. This volume is available for your review and a member of this office will provide clarification upon request.

_____ A determination has been made that you are entitled to Government owned/operated quarters, or an allowance in lieu thereof, in accordance with the provisions of the Department of State Standardized Regulations as implemented. To properly utilize this entitlement, you must follow the directions of the housing officials in regard to Government quarters, or complete the application forms and provide documentation for the allowance.

_____ No determination has been made that you are entitled to Government owned/operated quarters, or an allowance in lieu thereof, in accordance with the provisions of the Department of State Standardized Regulations as implemented. These regulations and implementing guidance are available for your review and a member of this office will provide clarification upon request.

_____ A determination has been made that you are entitled to a post differential of _____% in accordance with the provisions of the Department of State Standardized Regulations as implemented. This differential is subject to change or cancellation without prior notice.

_____ No determination has been made that you are entitled to a post differential in accordance with the provisions of the Department of State Standardized Regulations as implemented. These regulations and implementing guidance are available for your review and a member of this office will provide clarification upon request.

Signature, Name and Title of Personnel Office Representative

Date

I acknowledge that I have received and read this form after completion.

Signature and Name of Employee

Date

(The signed copy of this form is to be retained by the civilian personnel office)

(The form may be adapted as necessary to meet local conditions of employment)

Mr. JENRETTE. You were in the room, I believe, earlier when we were discussing the 1959 act and the 1960 act.

Mr. CLEWLOW. That is right.

Mr. JENRETTE. Is it your understanding that the 1959 act was related directly to the overseas teachers, or teachers employed by the Department of Defense, not overseas but maybe domestically and overseas?

Mr. CLEWLOW. It was directed toward teachers of the Department of Defense dependents school system; that is correct, sir.

Mr. COAKLEY. Maybe I can clear this up.

Prior to the 1960 act that Mr. Weiss was talking about, overseas differentials and allowances were governed by the Overseas Differential and Allowance Act of 1930, which applied only to the foreign service agencies. It was not until 1960 that this was extended on a governmentwide basis. So, therefore, in 1959 the Congress enacted Public Law 86-91. They said at that time that overseas differentials and allowances authorized by the Overseas Differential and Allowance

Act of 1930 should also apply to school teachers like they are to all other employees abroad. When the 1960 act was passed, that part of the 1959 act was no longer necessary.

Mr. JENRETTE. There is no specific act or public law today dealing with teachers overseas; is that your statement?

Mr. COAKLEY. Well, with regard to overseas differentials and allowances, not specifically.

Mr. CLEWLOW. The 1960 act had the effect of superseding, as it pertained to allowances—

Mr. JENRETTE. That is your interpretation of the 1960 act, that it superseded the 1959 act and recodified the 1930 act, as far as the teachers were concerned?

Mr. CLEWLOW. As it related to allowances and transportation, because it then gave the State Department the responsibility for administering this on a governmentwide basis, and all departments and agencies were then bound by the regulations issued by the State Department.

Mr. JENRETTE. Mr. Taylor?

Mr. TAYLOR. The only question I think I might ask is one that I asked Mr. Weiss.

Have you ever considered hiring teachers only stateside?

Mr. CLEWLOW. I would like to ask Dr. Cardinale to talk to that, because he is the director of the dependents school system and has been responsible for that.

Dr. CARDINALE. We have thought about it, yes, sir, to answer your question; but we have not done anything about implementing that. We have got to leave some latitude to our regional superintendents, our district superintendents overseas.

We do have people who become ill, they must leave the school system at midyear, their parents may have died back in the States. They usually resign and come home for various reasons. We therefore have to have some kind of flexibility to be able to pick up people locally.

The enrollments may increase one year at one school and decrease at another because of troop movement. As youngsters start coming for school preregistration we can determine that there will be an increased enrollment. Since our recruiting in the United States, has been completed and it is near the opening of school we have to rely upon locally available qualified individuals to fill these positions.

So I don't think it would be entirely possible—we would be hamstringing our administrators if we said we will recruit exclusively and hire people exclusively in the United States to send them over.

Mr. CLEWLOW. I would like to supplement that a little bit, if I may.

If we did hire people only in the United States, then we might be running afoul of another law which places an obligation upon us to hire dependents overseas.

So if we would, on the one hand, be required to hire dependents overseas to fill certain jobs and, on the other hand, be precluded from hiring anyone from overseas, we would have to determine how we would walk that fine line.

For example, approximately 85 to 90 percent of the local hires overseas are dependents. The purpose for the introduction of that piece of legislation by Senator Symington was to provide some kind

of an incentive in the total force concept, which would also include an all-volunteer force. And in order to strengthen the all-volunteer force, it was hoped that there would be some provision which would allow some families to get additional income as a result of the hiring of dependents. So we have a significant number of employees, both inside and outside our school system, who are dependents of military personnel assigned to a place outside the United States and, indeed, maybe inside the United States.

So we would run into the possibility of a conflict of laws if we hired only overseas.

Mr. TAYLOR. If 85 or 90 percent of them are dependents of overseas military personnel, certainly they would not be concerned about what we are talking about here, would they? Because they—

Mr. CLEWLOW. They would not, that's correct, sir.

Mr. TAYLOR. When you enter into a contract with a teacher to go overseas, what is the term of that contract, normally?

Dr. CARDINALE. Depending upon the geographical area, it is two consecutive school years in most of the European countries. In places like Okinawa, Midway Island and Guantanamo Bay, Cuba, it is just 1 school year. At the end of that school year transportation is provided to bring that teacher back to the United States for re-employment leave. They can either separate at that time or renew to go back to that school for a subsequent school year.

Mr. TAYLOR. Do you have several teachers, or are there a substantial number of teachers who take a leave of absence from their duties here to go over to teach overseas?

Dr. CARDINALE. Yes, sir, this is pretty much the case. A teacher may have built up some tenure in a local stateside school system; Arlington County, Alexandria, New York City, wherever it might be, and they will ask for a leave of absence for 1 year, and usually they would probably want to stay a little bit longer. They may get another year's extension from their local school board so they would have a 2-year leave of absence for the program.

Some of the other teachers who have not yet built up any tenure will stay—we have teachers in our system who have been there for 20 years and longer teaching in overseas schools.

Mr. TAYLOR. Are the salaries commensurate with what they would receive stateside?

Dr. CARDINALE. Under Public Law 86-91 and Public Law 89-391, we base our salaries on the range of the rates of urban school systems in the United States that serve a 100,000 population. There are 206 systems where there are 100,000 people in the school jurisdiction, and we take the average, the mean, and set our salaries accordingly.

Mr. TAYLOR. I believe that's all, Mr. Chairman.

Mr. JENRETTE. Back to the recruitment. I've been here 22 months, I guess, and I guess I have had that many individuals wanting to be employed in overseas schools, and I think my batting average is zero. I don't think any of them that I have sent over to you have been employed, and I believe they would be happy to go in the middle of the year or any time that they could because they think it is a great opportunity.

But isn't it a fact that in your recruitment program, notwithstanding Senator Symington's legislation, you do extensive recruiting through

advertisements in Stars and Stripes and on radio in Europe, particularly, for recruitment of teachers?

Dr. CARDINALE. Yes. This is done quite late in the school year. As I was mentioning in response to one of the questions Mr. Taylor asked, we generally do all of our recruiting here in the States. We have brochures and just go out with a U.S.-wide news release through our Office of Public Affairs. We also make extensive use of word of mouth. Teachers in the system before pass the word on. Overseas, when these requests are made in the Stars and Stripes and over the Armed Forces News Network, it is because we have a need at that particular moment. It is usually very, very late in the summer. We are talking about the last week or so in August, where enrollment in the school may have fluctuated either up or down, because of troop movements. And then we have to fill those jobs locally.

It would be difficult at that late date to recruit someone in the States, do the processing, and then get them overseas by the time the school starts. This is the flexibility that our local people need to be able to pick up some local recruits there.

Mr. JENRETTE. Are you saying that you don't do any advertising overseas at the end of the school year for the following school year?

Dr. CARDINALE. Not to my knowledge, they have not been doing that, Mr. Chairman.

Always, of course, during the course of the school year people become ill. In some cases a dependent wife, her husband is reassigned, and she will leave in the middle of the school year and go with her husband. And we do have a central—in Europe, particularly, we do have a central referral system of all people already overseas. We have a consolidated personnel office in Germany, and they do have applications from dependents and from the nondependents that are there, the wives or spouse of business people or tourists or someone enrolled at the University of Heidelberg for an advanced degree, in some cases like this.

Mr. JENRETTE. Well, if you hired someone late in the year that has to be a local hire, is that contract a permanent or temporary contract?

Dr. CARDINALE. It is a temporary, not to exceed, appointment, and it is usually specified, a certain date that you are hired for, not to exceed June 5 or June 10, whenever the end of the school year is. And then the teacher understands that. It is written into the agreement that they sign that their job will not extend beyond a cutoff date.

Mr. JENRETTE. Is that true, also, when you would hire locally for the full school year?

Dr. CARDINALE. They would be an NTE employee also. And there is a certain date when that agreement is terminated. It may be renewed again if the same experience of, perhaps, more students or several of the stateside recruited teachers resigned, then the agreement could be extended for another year if that individual is under an NTE appointment.

Mr. JENRETTE. Before 1971 all teaching personnel were generally given quarters, and by regulation it was stopped; am I clear in that?

Mr. COAKLEY. Before 1971 the regulations governing overseas allowances did provide for the grant of quarters to some categories of local hires. Not all categories, but a limited number of categories. I

think the strictly tourist type, someone just happening to pass through, was authorized quarters at that time. All other types were not.

In 1971 the regulations were revised to make all local hires not eligible for quarters; in other words, treating all local hires alike.

We ran into the same kind of problem we are having now. People were complaining because one type of local hire was getting all of the benefits and the other local hires were not. Now we are getting the same kind of complaints. But it is that all local hires are not getting the benefits.

Mr. JENRETTE. What is the percentage of applications that are accepted for overseas?

Of the many thousands you get in every year, what percentage are you hiring?

Mr. COAKLEY. For this school year we accepted 2,829 applications. And of that number, 493 commitments were made.

Mr. JENRETTE. There are 7,700 teachers overseas, total?

Dr. CARDINALE. About 7,500.

Mr. CLEWLOW. Approximately 16 percent of the applicants were hired, and that represents a very small percentage of the total number overseas.

Mr. JENRETTE. The retention rate is high or low or in the mean with the United States?

Mr. COAKLEY. It is getting very high now. At one time the majority of our teachers were attached to a stateside system and really were just interested in coming over and teaching with us for 1 year and then returning to their system. For the most part now we are getting away from that.

Dr. CARDINALE. To show you, in the reverse, we used to have a turnover rate of about 36 percent, 33 to 36 percent turnover every year in the system. Now our turnover rate is somewhere between 12 and 15 percent. Teachers are staying longer with us. The salary, as I mentioned earlier, is comparable to that of the schools systems, those 206 school systems here in the United States. The job market back in the States is not too good at the moment, so many of the teachers are remaining overseas.

The kinds of individuals that we have overseas, as was mentioned earlier, are tourists, people who decided to go to Europe or the Far East on their own. But then you have, of course, those whose spouses are there on business assignments. You have individuals who have retired and decided to live in an overseas area. You have the students who are working on advanced degrees. You have people who are traveling and have decided to travel more in Europe and who have to get a job, and so they want to work not only with the schools but with other Federal agencies.

In the recruiting, also, of those people that we have not selected—they are all well-qualified people—of the number that Mr. Coakley mentioned, these are the ones that we have screened out and the ones that we have selected for interview and for serious consideration for employment. And then some of these individuals, when they are not selected, have indicated, "Well, I am going overseas anyhow and I am going to try to get a job locally, even if I have to wait until after September, but I am going to get a job, whether you hire me in the States or not."

Mr. JENRETTE. And you encourage that?

Dr. CARDINALE. No, sir, I don't. I can't control what they do. They are free to do whatever they wish. But my advice to them is, if you are seeking a job and you intend to be hired overseas—and I either tell them this in a letter or phone call, depending upon how they respond to me—I tell them, "You will not receive these benefits," and I enumerate them, and I say, "Now the decision is yours. If you want to go, certainly I cannot stop you from taking the trip."

Mr. JENRETTE. Thank you.

The distinguished lady from Maryland came in.

Do you have any questions?

Mrs. SPELLMAN. Thank you. As I understand the problem, an individual goes over to Europe and is hired there. At the time they finish teaching or decide they no longer want to stay, are they sent back to the States?

Dr. CARDINALE. No, ma'am, not if they were hired locally overseas.

Mrs. SPELLMAN. If they were hired locally, then they don't come back or transfer?

Dr. CARDINALE. They don't have that transportation, and we have at that point no obligation to return them to their home of record in the United States.

Mrs. SPELLMAN. Now the purpose of the act is to improve and strengthen the administration by providing a means for more effectively compensating government employees for the extra cost and the hardships of assignment overseas. What extra costs or hardships are involved except for that initial transportation?

Dr. CARDINALE. If I may, I would like to ask Mr. Coakley if he would respond within the area of extra costs. It would be a comparison of what it really costs an employee of the Federal Government in Washington, D.C. For instance, in many areas the cost of living is considerably higher than it is in the Washington, D.C. area. You may find that hard to believe but there are some places where it is.

Mr. JENRETTE. I find it very hard to believe and I've been here about a year and a half.

Mr. COAKLEY. In those cases there is an allowance called the cost-of-living allowance, which is paid to Federal employees to make up the difference. In other words, if it's 5 percent higher than Washington, then they get an adjustment in their allowance to make up for that.

Mrs. SPELLMAN. Is that the case, regardless of whether they were hired abroad or here?

Mr. COAKLEY. That is paid regardless of the point of hire to everybody overseas. Now, in the hardship area, that is primarily an environmental and health situation where the environment or health situation is drastically different from that in the United States. In that case, they are paid a differential which is a percentage of base pay, depending on the degree of difficulty in an area. This differential is not paid to people who are hired locally. It is only paid to those that are recruited in the United States. I believe the law is pretty specific and pretty clear in this case, that it was meant only as a recruitment incentive and would only be paid to people who are recruited outside of an area and sent into an area.

It ranges from 10 percent to 25 percent, depending upon the difficulty of the area and the degree of health factors involved.

Mrs. SPELLMAN. Does it not make for inconsistencies when you have two people teaching side by side getting different salaries?

Mr. COAKLEY. It certainly is inconsistent from that viewpoint. But it is our opinion, and as was also expressed by the State Department, that what we are trying to do is implement the law as it was passed and as it was intended. In our viewpoint it was meant to apply to people who are hired outside of the area and sent in, not those that for their own personal reasons have decided to go abroad and while they're there they decided to work for the U.S. Government.

Mrs. SPELLMAN. I see. There was one other point discussed that I believe is facilitating for the Government's recruitment and retention of the best qualified personnel for civilian service overseas. I'm again just a little bit puzzled about the dual standard. Would higher benefits serve to retain people regardless of where you picked them up?

Mr. COAKLEY. It certainly would.

Mr. SPELLMAN. That's all I have.

Mr. JENRETTE. Counsel has a statement he would like to make.

Mr. McCLUSKEY. Thank you, Mr. Chairman.

The subcommittee staff has requested opinions from legislative counsel, full committee counsel and the Library of Congress as to the effect of Public Law 86-91, Public Law 86-707, and this particular bill and how they relate.

We're presently of the opinion that Public Law 86-91 is directed solely to teachers; Public Law 86-707 is directed to all civilian personnel and does not necessarily override Public Law 86-91, insofar as it is contained in terms of May, and does not specifically strike down any section of Public Law 86-91.

No counsel can find where any allowances, either in the bills themselves legislative intent, in the reports accompanying both bills, are to be based on areas of recruitment or hire.

At this point, therefore, I would like to request, Mr. Chairman, a legal opinion from both the Department of State and the Department of Defense, for the record, outlining on a legal basis the authority for their reasoning in opposing this bill, that it was the legislative intent that benefits be given solely for incentive purposes or are to be based upon a persons area of hire or recruitment.

Mr. JENRETTE. The request will be so stated in the record and we would ask that the Departments ask their counsel if they would see fit to provide—

Mr. COAKLEY. Legal reasons why we're opposing this bill?

Mr. McCLUSKEY. Legal reasons backing up and showing the legislative intent.

Mr. COAKLEY. In other words, you're asking where do we derive our viewpoint?

Mr. McCLUSKEY. In other words, for those hired in the United States, the backed-up legislative intent or specific law or whatever.

Mr. CLEWLOW. We will be happy to furnish that for the record.

Mr. JENRETTE. Would you also do that, Mr. Weiss?

Mr. WEISS. Yes.

Mr. JENRETTE. Thank you, gentlemen. We appreciate very much. It's good to see you again.

The next witness from the Frankfurt Education Association, Mr. Edward Siemaszko.

**STATEMENT OF EDWARD SIEMASZKO, REPRESENTATIVE OF THE
FRANKFURT EDUCATION ASSOCIATION'S HALF-DAC COMMITTEE**

Mr. SIEMASZKO. I appreciate this opportunity to appear before the subcommittee on behalf of myself and other local hires.

I would like to skip over certain passages of my statement which I think have been discussed at length already.

Mrs. SPELLMAN. If there is no objection, your entire statement will appear in the record at this point.

[The complete statement follows:]

PREPARED STATEMENT OF EDWARD SIEMASZKO

Mr. Chairman, and Members of the Subcommittee, my name is Ed Siemaszko. I am representing the Frankfurt Education Association's Half-Dac Committee. The FEA is a local chapter of the Overseas Education Association. While our Committee is locally based, we have been in direct contact with hundreds of local hires all over the European, Pacific and Atlantic sectors of the DOD School System. I was able to come here today because of the generosity of my colleagues in Frankfurt, both state-side and local hires who are appalled by the discriminatory personnel practices of DOD, and who strongly support the ending of such discrimination by the passage of H.R. 15003. I was hired as an NTE in March of 1973 and was subsequently converted to permanent status in May of 1974. I teach German at Frankfurt American Junior High School.

I appreciate this opportunity to appear before the Subcommittee on behalf of myself and other local hires.

I would like to review briefly a few points from the testimony which we submitted for the record to this Subcommittee on June 17, 1976.

1. Local hires are deprived of the following benefits: a) transportation agreements, b) living quarters or LQA, c) space-available travel, d) cost-of-living differential, e) educational leave, f) shipment of personal goods, g) certain types of transfers.

2. Current regulatory practices used by DOD, the Dept. of State, the Dept. of Army, and local CPO offices are contrary to the wording and intent of already existing legislation, i.e., PL 86-91 and PL 86-707.

Section 7 of PL 86-91 clearly states: "Each teacher (other than a teacher employed in a substitute capacity) shall be entitled, for each school year for which he performs services as a teacher, to quarters or a quarters allowance equal to those authorized by the Act of June 26, 1930 (5 USC 118a)." In Section 2 of PL 86-91, "teacher" is defined for the purposes of this act as follows: "teacher" means an individual (A) who is a citizen of the United States, (B) who is a civilian, and (C) whose services are required on a school-year basis in a teaching position."

PL 86-707 calls for a "uniform system of compensating all government employees in overseas posts." The accompanying Senate Report (#1647) points out that "the effectiveness of their performance is directly related to the fairness and wisdom inherent in the policies under which personnel are employed."

No fair-minded person could defend employment practices which permanently exclude full-time career teachers from the benefits, amounting to thousands of dollars per year, which are enjoyed by their co-worker peers, as wise and fair. Even the Deputy Assistant Secretary of Defense for Civilian Personnel Policy, when testifying before this Subcommittee on June 15, 1976, found himself hard-put to respond to the Chairman's questions as to whether discrimination against local hires was fair or unfair. Mr. Clewlow claimed that DOD "is keeping an open mind and will reexamine this from the standpoint of equity." And yet when the Overseas Education Association presented the issue to DOD as an item for negotiation during bargaining sessions this past summer, DOD rejected the item out of hand.

Up to the present time DOD regulation-writers have chosen to ignore the mandatory character of PL 86-91 in favor of the discretionary authority they arbitrarily claim for themselves on the basis of the wording of the Act of June 26, 1930, which uses the word "may" instead of "shall," when describing the Agency's authority to provide benefits to overseas employees. By extension, therefore, the wording of PL 86-91, "Each teacher . . . shall be provided . . . living quarters, etc.," is twisted to mean "each teacher may receive living quarters," which in turn

is refined to mean "each locally hired teacher must not receive living quarters." If we apply DOD's linguistic logic to the Commandment, "Thou shalt not kill," discretionary power would transform the commandment to "thou may not kill," and then into the ultimate metamorphosis of "thou must kill." Such manipulations of language have, unfortunately, not remained in the realm of semantics, but have resulted in the manipulation and exploitation of human beings. I would like to present an example of how DOD's tortuous interpretation of the law produces policies which are not only unfair and unwise, but absurd.

In 1972 a teacher from the overseas branch of the University of Maryland resigned his job to accept employment with DOD. He was ruled eligible by DOD for housing and a transportation agreement, since he received both from the firm which had originally hired him in the States. On the other hand, a serviceman discharged in Europe in June of 1971, had received a housing allowance for himself and his wife while in the service. In August of the same year he was hired to teach in a DOD school. Because of this artificial "break in service," and because regulations permitting the allotment of housing to converted NTE's had been nullified in the meantime, this ex-serviceman and his wife, who was also a teacher in a DOD school, lost all the privileges and benefits they had been entitled to. They are still teaching for DOD, and they are still without benefits.

The history of public legislation dealing with overseas teachers reveals that none of these laws discriminate between local hires and stateside hires for purposes of compensation, eligibility for benefits, or any other reason. Only DOD, Dept. of State and CPO regulations insist on establishing two classes of teachers-up-front stateside hires and back-of-the-bus local hires.

At this point I would like to address several issues arising out of the testimony made to this Subcommittee on June 15 and 17, 1976.

In his opening statement to the Subcommittee, Deputy Assistant Secretary of Defense for Civilian Personnel Policy, Carl Clewlow, maintained that the various allowances and benefits provided by the law for overseas employees may be authorized "as recruitment and retention incentives . . . to offset those additional expenses necessarily incurred because of overseas service." Mr. Clewlow further insisted that "the law provides for transportation and housing as incentive and retention factors." (Page 8, Record of June 15, 17, 1976 Hearings of this Subcommittee) In point of fact, this language does not stem from the law, but from DSSR, Section 031.1. (Cf. "The Allowance Program, An Explanation Prepared by Director, Allowances Staff, Dept. of State," August 28, 1969.) It is precisely this attitude on the part of DOD officials, namely, that their regulations are the law, which disturbs me when I read the clear and simple language of H.R. 15003. As I indicated in a letter to Congressman White, even if H.R. 15003 should soon become law, what is to prevent DOD from making a semantic shambles of this law too, as it has done with PL 86-91? I can, without great difficulty, envision officials of DOD, who will still be the ultimate interpreters and arbiters of the law, establishing at some future date, new categories of teachers, into which local hires will neatly fit and thereby still be deprived of benefits. I believe DOD's regulatory history justifies my skepticism. It is evident that H.R. 15003 has become absolutely necessary, only because recent decisions and interpretations by DOD clearly violate and void the intent and wording of PL 86-91. I would therefore recommend that some phrase such as "regulations of any U.S. Agency to the contrary notwithstanding," be added to the sentence ending on line 3, Page 2 of the drafted Bill, H.R. 15003. I would further recommend that the provisions of H.R. 15003 be made retroactive to the date of hire.

Mr. Clewlow's testimony in June suggested that the allotment of such benefits as transportation and housing is in reality only a recruitment incentive and not a retention incentive for locally hired career teachers. Does the locally hired teacher who makes a career in DOD need a retention incentive less than his co-worker stateside hire? Does DOD expect a locally hired teacher to rent quarters at his own expense, fill those quarters with furniture at his own expense, and then not be able to ship those furnishings back to the U.S. in the event of a reduction in forces? Is it fair for DOD to assume that the locally hired career-teacher will set up a bivouac for twenty years? Does DOD maintain the best of all possible school systems by expecting the locally hired teacher to remain stagnant in his educational growth, while the stateside teacher is permitted subsidies for summer travel to the U.S., thereby enabling him to improve his academic competence by attending University summer courses, or even to take a year's educational leave to earn credits and perhaps degrees that will not only increase his effectiveness in the class room, but also his position on the pay scale? Is a death in the family

of a locally hired teacher (who is denied space-available travel on such occasions) less of a personal and financial loss than that of a stateside hired coworker? Does DOD really intend the locally hired career teacher to marry, raise and educate a family and provide for his household under financial conditions which deprive his family of cultural, social and educational opportunities enjoyed by the families of his colleagues? Does an increase in the cost-of-living mean that only the families of locally hired teachers are expected to suffer the loss in purchase power of their salary? Are only the children of locally hired teachers expected to eat less because of the devaluation of the dollar in foreign countries?

With respect to the cost-of-living allowance. I would like to point out the following. Mr. Clewlow stated, "Since all employees abroad are faced with the same costs, this allowance is paid to all employees regardless of point of hire." The fact of the matter is that local hires are deprived of this benefit too. In 1973, after the dollar had devaluated by more than 30% in Germany, the Dept. of Army was compelled to adjust its schedule of cost-of-living allowances. After several months of delay, the schedule was prorated upwards by less than 5%. Local hires received no benefit from this adjustment, because it was added to housing allowances, which local hires did not receive anyway. Parenthetically, I'd like to point out, that according to *Time* magazine, Frankfurt, Germany, the city where I work, has the second-highest cost-of-living rate of any city in the world. The cost-of-living factor is important here, because it tends to affect local hires more than stateside hires. Due to the fact that they receive no LQA, local hires are generally compelled to seek cheaper housing in outlying areas without easy access to commissaries and PX's, the result being that much of their shopping for subsistence items such as groceries, etc., must be done on the economy at considerably higher prices.

I would like to return for a moment to the concept of recruitment. DOD representatives who testified before this Subcommittee left the impression that the DOD recruits teachers only in the U.S., thus obviating the necessity for recruitment incentives to people hired abroad. It is, however, a fact that DOD has an extensive recruitment program abroad, at least in Europe, where teacher vacancies are announced on AFN (one of the most powerful and most widely listened-to stations in all of Europe) and published in Stars and Stripes and other community newspapers. I personally first heard of the Overseas Dependent Schools and the availability of teaching positions by listening to AFN. While I would not maintain that DOD tries to recruit local hires in the U.S., I know of at least one teacher who inquired about teaching possibilities in the overseas schools by calling the OODE office in Washington and was told her chances of being hired would be much greater if she went overseas on her own.

The most discouraging aspect of the entire local hire situation, is that the locally hired teacher is trapped forever in a dead-end, no escape judgment on the part of DOD, based on the irrefutable presumption that he is a self-willed expatriate residing abroad at his own convenience and is therefore never entitled to benefits which are sometimes granted even to non-citizens of the United States. Now matter how competent and dedicated at each he may be, no matter how devoted to his students, his school system and his country, the local hire can never earn the rights to be a first-class citizen if he remains in the employ of DOD. Even the Romans did not deprive their slaves from the possibility of earning the right to the equality of full citizenship through dedication and service to their country. In the past, DOD left a few doors open to the local hire, but these too have been effectively sealed. Between 1960 (the year that PL 86-91 was promulgated) and 1971, teachers converted from NTE status to permanent status were considered equals to their peers and were allotted full benefits. That door is now closed—by regulations. It is interesting to note how far DOD has come from its original interpretation of the law. One is tempted to ask: "Was DOD acting in contempt of Congress during the sixties, or are they acting in contempt of Congress during the seventies?"

In the past teachers transferred by management request could be provided benefits. The current minimum-transfer program practised by DOD virtually eliminates all local hires from such a possibility. In some cases, even local hires who were "RIFFED" by DOD, were refused allowances when they reported to their new duty stations, because prior to the RIF action, CPO required that such teachers sign an intent form suggesting preferred new working locations. The hiring CPO then declared the incoming teachers ineligible for benefits, because the signed intent form proved that the transfer was teacher-generated and not management-generated.

Teachers in Europe who try to use approved grievance procedures to seek a favorable judgment based on law, are thwarted because the procedure ends with the Dept. of Army and not with an impartial arbitrator, or because grievances are rejected as "untimely"—in most cases because the grievant was never informed by CPO that non-allotment of benefits can be grieved only within 30 days of the determination. NTE's are even fearful of filing a grievance procedure, lest they be labeled "persona non grata" by management and thus limit or destroy their chances for conversion after 150 days as a "temporary employee."

The Dept. of Army's Equal Employment Opportunities Office has refused to touch discrimination against local hires, because they claim we do not fit into their categories of race, religion, sex, age and ethnic origin.

In general the local hire is shifted through a maze of Kafkaesque DOD, State Dept., Dept. of the Army and CPO regulations, until the regulation least favorable to the local hire can be found and applied.

Mr. Clewlow referred to the growing reliance of DOD on local hires as a consequence of the desire some few years ago to maintain "a low profile of U.S. citizens' presence abroad," a desire to provide dependents with job priority, and the gold-flow factor. I find it difficult to understand how hiring U.S. citizens abroad instead of in the U.S. maintains "a low profile of U.S. citizens abroad." I can understand the desirability of preferential treatment of dependents in hiring policies. But I think there are some additional factors that deserve mention in this historical profile. It is true that DOD hiring policies have changed over the years—to the point where forty-two hiring days a year are allocated for the recruitment of local hires, only twelve days are set aside for filling vacancies by transfer, and an additional twelve days are directed to the selection of employees from the United States. With so much emphasis on recruiting local hires, each of whom saves thousands of dollars in initial outlays for air-fare and shipment of household goods, it is difficult to understand why Mr. Clewlow does not think that this is a cost factor. It certainly is a cost factor for the individual who brings his own family overseas in search of employment at his own expense. One must admit that global mobility has significantly increased in the past decade. One must also admit that the job market for teachers in the U.S. is saturated, causing teachers to look for employment beyond the normal geographical parameters. DOD uses this current economic fact to exploit the enterprise of American citizens who go to where the work is instead of joining the unemployment lines at home, by regulating them into the unfortunate position of being part of a cheap labor market. Also it is difficult to understand how the gold-flow problem is alleviated when local hires are compelled to convert their dollars to D-marks in order to pay their German landlords, while stateside hires reside in U.S. owned quarters. Could it be that DOD tries to recoup the losses incurred in billion-dollar cost overruns for sophisticated weapons-systems, by trying to squeeze thousands of dollars from the most defenseless employees of the Defense Dept.?

The history of the local hire in DOD schools is a sorry one, not only because it has created an intolerable situation in which two teachers working side by side, with the same workload and professional ability are paid drastically different sums of money; not only because this discrimination destroys employee morale and lessens teaching effectiveness, but quite simply, because it destroys any credibility the United States Government might have when it claims to represent a nation that believes in equal employment opportunity and justice for all its citizens. My European colleagues find it frankly incomprehensible that any Agency of the U.S. Government would not only tolerate discriminatory practices against United States' citizens, but would actually perpetrate discrimination against its own employees. Perhaps this is the real reason why DOD has found it desirable to "maintain a low profile of U.S. citizens' presence abroad."

Mrs. SPELLMAN. Of those who are locally hired, are most of them in foreign countries because of previous employment with the United States Government?

Mr. SIEMASZKO. Not necessarily. I believe most people who seek employment overseas are, as other people have pointed out, there for a variety of reasons. I myself was there because I was working on an advanced degree, doing research. And I had, during the time I was in Germany, written about 85 letters to various school systems and institutions in the United States seeking employment there. And as I

mentioned I had also heard about the possibility of working for DOD in Europe. I applied and was accepted there.

Mrs. SPELLMAN. I note from your testimony that you were converted from the NTE status to career status at the end of 1 year. Do you find that the present system set up for conversion status is satisfactory?

Mr. SIEMASZKO. No, I don't. I find it leaves a lot of room for the administrators to more or less play with the people that they hire. I believe there was a case mentioned in the committee print of a teacher who was hired as an NTE for 10 successive years. The normal situation is that—I would presume that if DOD thinks that a teacher has the qualifications and the teaching ability and is a desirable employment object, that he would be converted after a year. But in reality, it happens sometimes; it doesn't happen other times. My own wife worked for DOD for 2 years.

She was promised conversion at the end of her first year and received glowing reports of her teaching ability from the principal and was recommended for conversion and did not get converted. She was then offered the same job at the same school. The subsequent year she was also promised she would be converted, received the same kind of glowing reports, and on the last day of school she was told that she would not be converted.

Subsequently, she sought employment with a German firm. In August, she received another call from the same school for the same job. And at that point, she had decided already—we weren't married at the time, she didn't have the kind of security she now has—she had decided to stay with the German firm. Later on she was called again to work as a substitute. And because she was working for a German firm, she was told that she could not even substitute because of an agreement apparently made with the NATO countries that anyone who has a working permit with the German Government at the present time, if he is an American citizen, is no longer considered eligible for employment with the DOD school systems.

I would venture to guess, however, that the enforcement of that regulation is something that DOD has thought of—I'm sure the NATO agreements have been in power for a long time. I think there's a concerted effort now to eliminate the locally hired nondependent. There is more and more effort being made in that direction, I guess, to get rid of the problem.

Mrs. SPELLMAN. Let me ask a question in which I'm just going to play the devil's advocate. You said local hires are deprived of transportation benefits which would permit one to come back to the States with one's household equipment. Is that what you are referring to?

Mr. SIEMASZKO. That's correct. The assumption is—I believe the gentleman from the Dent committee who testified here last week tried to leave the impression that people who are hired locally are for some reason or another less professionally qualified, because they are at the point of hire, that DOD for some reason or another, selects teachers who are only going to be there for their own personal reasons. And that this particular situation then makes it very difficult, for example, to transfer people.

It gives you the impression that the locally hired teacher is not really serious about becoming a career teacher. My feeling is that once the

teacher has made a commitment to the system and that DOD has made a commitment to the teacher, then he should be a full time employee and he should have the right to raise a family and have some furnishings in his home, which are his possessions and which he then can take with him back to the United States at such time when it can be determined by DOD that the school should close, or that they don't have any need for his employment any more.

I think that is an unfair situation and that is part of the transportation agreement.

Mrs. SPELLMAN. As I said, I'm playing devil's advocate now.

Mr. SIEMASZKO. There's another aspect to it, if I may add, that up until the present, locally hired teachers are not eligible for inter-area transfers—for example, I could not be transferred from the European area to the Pacific area or to the Atlantic area, because I did not have transportation, so that eliminates kind of a double benefit there.

Mrs. SPELLMAN. As I said, I will play devil's advocate. I am in Germany. I apply for work as a teacher. I'm already in Germany, the United States Government did not have anything to do with sending me there. Why does it owe me the right to take me back to the States?

Mr. SIEMASZKO. I think it owes me the right as a full-time employee of the United States Government to be treated the same way that other full time employees are treated. I believe also that the statement of Public Law 86-91 is very clear in defining who is a teacher, who is entitled to benefits. I am quite sure if the intent of the law was that local hires should be excluded from that benefit that it would have been done so in the public law.

I think it makes sense that the so-called recruitment incentive, is a savings of thousands of dollars for the person who is taken from the United States and goes overseas. That makes a lot of sense to me. That is a pretty good recruitment incentive. But I think there is also the additional fact, and in the words of the State Department itself that incentive is not just a recruitment incentive, it is also a retention incentive.

And I think it is also fair after years of service for the Department of Defense, that one can expect that this very large cost of shipping one's personal furnishings back to the United States should be assumed by the employer just as he assumes those costs for other career teachers in the system.

Mrs. SPELLMAN. I'm not sure I fully comprehend it yet. You say all people should have the same benefits. I can understand that if I were sent somewhere that I would expect to be taken back. But if I weren't sent, for instance, if I were in Germany and sent to the United States, I think they would have to bring me back to Germany. But I'm just, as I said, playing devil's advocate.

Mr. SIEMASZKO. I think there's a double responsibility involved here. When I accept a position with DOD overseas, even though I happen to be there to accept the position, I'm making a commitment to DOD, and when DOD converts me to full time status, they are in effect saying we're making a commitment to you. And at that point, I think it is logical to assume that if I'm going to pursue a career with DOD, that they treat me as they treat all other full-time career members of their organization.

Mrs. SPELLMAN. I can certainly understand that if you are working and teaching side by side with other teachers, that the salaries ought to be the same. There should to be recognition of the cost-of-living factor. But I'm not sure I buy all of what you're advocating.

Mr. SIEMASZKO. I think it would be better to view it in these terms, to say that the compensation should be the same. As I mentioned before, even things like cost-of-living tend to get confused in the maze of regulations that exist. And one finds that even in something like that—it is hard for me to understand for example, why the cost of living applies everyone that is employed by the government overseas but the benefits do not. They're also part of the same out of pocket expenses that I have, as another teacher would have, if he were not in a stateside post.

Mrs. SPELLMAN. Now, I did read of someone who went overseas by the act of another agency of the government, then became a teacher, and then was left stranded. Do I understand that is the case?

Mr. SIEMASZKO. That is correct.

Mrs. SPELLMAN. That does concern me, because I think the Federal Government owes that family the commitment to bring them back. The Government sent them overseas initially, and they should bring them back.

Most of the problem, I think, is pretty much self-explanatory. I understand your concern for DOD and the Department of State implementing regulations which might destroy the effects of H.R. 15003. I want you to know that this subcommittee intends not only to spell out very clearly its intent in the legislative report for the implementation of the bill, but it will follow up its action from time to time in its oversight capacity to see that the intent has not been distorted by regulations. So often we find regulations totally changing laws.

Mr. SIEMASZKO. There's been another example, if I may point it out. There was a gentleman in our school who was hired last year. He was hired after the school year had begun. He was therefore not eligible for full-time status at the end of the school year. He was a former serviceman. The practice has been in accordance with the recent back-pay suit decision made by Judge Greene that servicemen who had previously been teachers and then been drafted or went into the Army for some reason or another would then be given credit for the 2 years that they spent in the Army.

This gentleman was given credit at that time and then the determination was made this past summer that the previous experience that amounted to service in the Army would no longer be given. He was rehired again for the same job, and dropped two pay steps on the salary scale.

It becomes very confusing and very hard to understand how the regulations constantly affect people and end up decreasing their salaries for more experience. I don't understand that kind of reasoning.

Mrs. SPELLMAN. Does counsel have some questions?

Mr. McCLUSKEY. Madame Chairwoman, just for the record, the subcommittee has issued a committee print entitled "Problems Confronting Teachers in the Overseas Dependents School System." Committee print No. 94-16. And I would like to commend the DOD for its cooperation in writing this Committee print.

Mrs. SPELLMAN. Very good.

Well, thank you very much for your testimony.

Mr. SIEMASZKO. Thank you very much for the opportunity. I would like to thank you also on the behalf of other local hires for the speed and thoroughness with which you have addressed the problem.

Mrs. SPELLMAN. Sometimes Congress can amaze you.

Mr. SIEMASZKO. It certainly has in this case.

Mrs. SPELLMAN. Thank you very much.

Mr. COAKLEY. There is one of the principles of the NATO status of forces agreement which indicates that a person who becomes an ordinary resident in a host country can no longer be considered for employment as a member of the civilian component, which means as a U.S. citizen. So if a U.S. citizen has been living in Germany for more than a year or has taken out a work permit, the German Government will not let us hire that person as a U.S. citizen.

For years they did not concern themselves with that, because the employment situation in Germany was such that they really did not care if these people were working for us. The employment situation in Germany has changed and they are now concerned and they have said that they are not going to permit those people to work for us any longer.

So in this particular case, he (Mr. Siemaszko) said it was the Department of Defense's interpretation, but it was not. For years the Department of Defense did hire these people as members of the civilian component, but the German Government will no longer permit that.

Mr. McCLUSKEY. I understand that this is also true of Italy.

Mr. COAKLEY. All the NATO countries.

Mr. McCLUSKEY. This is true. But I understand both Germany and Italy are beginning to enforce it.

Mr. COAKLEY. Well, not only that, but Spain is beginning to exert pressure. And Turkey and Greece, in the new agreements, they are concerned. So we are getting some pressures from all of our European countries to back off a little on the hiring of people who have decided to take up residence in the host country for some reason or another. They consider anybody who has been there for at least a year really intends to live there.

Mr. McCLUSKEY. Would you be so kind as to send a copy of that NATO agreement with that provision in it?

Mr. COAKLEY. Yes.

Mrs. SPELLMAN. For my own enlightenment, what change in the labor market causes them to make this decision?

Mr. COAKLEY. For a long time the German employment situation was such that they imported all kinds of labor from outside of Germany. And, as I understand it, I don't know exactly what level of unemployment there is in Germany, but there is an unemployment problem in Germany, particularly in some locations, and they are concerned.

Mrs. SPELLMAN. What they're trying to do then is discourage foreigners from becoming part of their labor force?

Mr. COAKLEY. Exactly.

Mr. SIEMASZKO. If I may, I would like to address that same problem for just a short time.

Currently in Germany there are less than 1 million people unemployed. A great majority of which are so-called guest workers who fill positions—it doesn't seem nice to say, but fill positions that Germans don't want. And I find it somewhat difficult to believe that the German Government would try to impose regulations on the teaching staffs of American schools. Primarily because there is—granted there is an excess of German teachers in the German market at the present time. But they are simply not qualified to teach in American schools, so I don't see how the implementation of this regulation is going to solve the German unemployment problem.

And parenthetically I might add that the unemployment situation in Germany has been getting better, that there are fewer unemployed people in Germany at the present time than there were a year ago or 2 years ago.

Mrs. SPELLMAN. If there is no further testimony, we stand adjourned.

Thank you very much.

[Whereupon, at 11:05 a.m., the hearing was adjourned.]

[The statements and letters which follow were received for inclusion in the record:]

ASSISTANT SECRETARY OF DEFENSE,
MANPOWER AND RESERVE AFFAIRS,
Washington, D.C., August 10, 1976.

Mr. RONALD P. McCLUSKEY,
Subcommittee Staff Director and Counsel, Subcommittee on Retirement and Employee Benefits of the Committee on Post Office and Civil Service, U.S. House of Representatives, Room B-345-D, Rayburn House Office Building, Washington, D.C.

DEAR MR. McCLUSKEY: This is with reference to your request for Department of Defense views on H.R. 15003, a bill, "To require that the allowances available to a teacher in a Department of Defense overseas dependents' school shall be provided without regard to the location at which the teacher was recruited."

We understand that this bill resulted from the hearings Chairman White recently held on this subject.

For the reasons stated in my testimony before the Subcommittee on June 15, 1976, the Department is opposed to any extension of allowances to individuals who had already taken up residence in a foreign area for their own personal convenience prior to being employed by the United States. For this reason, the Defense Department is opposed to H.R. 15003.

Sincerely,

CARL W. CLEWLOW,
*Deputy Assistant Secretary of Defense
(Civilian Personnel Policy).*

ASSISTANT SECRETARY OF DEFENSE,
MANPOWER AND RESERVE AFFAIRS,
Washington, D.C., September, 22, 1976.

MR. RONALD P. MCCLUSKEY,
Counsel, Subcommittee on Retirement and Employee Benefits, Committee on Post
Office and Civil Service, U.S. House of Representatives, Room B-345-D, Rayburn
House Office Building, Washington, D.C.

DEAR RON: I have attached the copy of Article I of the NATO Status of Forces Agreement which you requested during the hearing on H.R. 15003. As provided in paragraph 1(b) of this Article, a person, regardless of his citizenship, who is ordinarily resident in the host country may not be a member of the civilian component; i.e., he could not be hired as a U.S. citizen.

A person is considered to be an ordinary resident in the host country if he has (a) resided there for more than one year without status either as a member of the U.S. Forces, as a member of the civilian component, or as a dependent of a member of the U.S. Forces or the civilian component or (b) been employed on the local economy or self-employed in the host country.

This prohibition has been in effect since 1953 but has only recently been enforced by the German and several other Governments of the NATO parties.

Sincerely,

CARL W. CLEWLOW,
Deputy Assistant Secretary of Defense,
(Civilian Personnel Policy).

Attachment.

Article I, paragraph 1.(b) of the NATO Status of Forces Agreement defines civilian component. This paragraph states that persons ordinarily resident in the State in which the force is located cannot be a member of the civilian component. A person is considered to be an ordinary resident in the host country if he has (a) resided there for more than one year without status either as a member of the U.S. Forces, a member of the civilian component, or as a dependent of a member of the U.S. Forces or the civilian component or (b) has been employed on the local economy or self-employed in the host country. A copy of Article I, paragraph 1., follows:

"ARTICLE I

"1. In this Agreement the expression—

"(a) 'force' means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in the North Atlantic Treaty area in connexion with their official duties, provided that the two Contracting Parties concerned may agree that certain individuals, units or formations shall not be regarded as constituting or included in a 'force' for the purposes of the present Agreement;

"(b) 'civilian component' means the civilian personnel accompanying a force of a Contracting Party who are in the employ of an armed service of that Contracting Party, and who are not stateless persons, nor nationals of any State which is not a Party to the North Atlantic Treaty, nor nationals of, nor ordinarily resident in, the State in which the force is located;

"(c) 'dependent' means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;

"(d) 'sending State' means the Contracting Party to which the force belongs;

"(e) 'receiving State' means the Contracting Party in the territory of which the force or civilian component is located, whether it be stationed there or passing in transit;

"(f) 'military authorities of the sending State' means those authorities of a sending State who are empowered by its law to enforce the military law of that State with respect to members of its forces or civilian components;

"(g) 'North Atlantic Council' means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorised to act on its behalf."

STATEMENT OF DENNIS GARRISON, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

The American Federation of Government Employees, AFL-CIO representing over 725,000 government workers in exclusive recognition units, welcomes this opportunity to present its views on H.R. 15003. Enacting this bill would prohibit discrimination in the granting or withholding of differentials and allowances against locally recruited personnel which teach in the Department of Defense overseas dependents' schools.

We have previously testified on earlier legislation to the effect that all U.S. citizens employed overseas should receive the same benefits regardless of point of hire, and we now recommend that this bill be appropriately amended.

On the understanding that our remarks apply to all employees and that we are officially petitioning for such a change in the text of H.R. 15003, we will direct our remarks to the text as written. We do this to emphasize our concern with long standing inequities in employee compensation which have arisen as a result of executive branch allegations of ambiguity in the original law.

Section 203 of the Overseas Differentials and Allowances Act (PL 86-707) states:

"The allowances and differentials authorized by this title shall be paid in accordance with regulations prescribed by the President establishing rules governing payments thereof and the respective rates at which such payments shall be made, the foreign areas, the groups of positions, and the categories of employees to which such rates shall apply, and other related matters."

Under Section 4(a) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (PL 86-91), authority to prescribe and issue regulations to carry out the purposes of the act is vested in the Secretary of Defense, and covers matters including compensation, quarters, and allowances.

The discretionary authority over the matter of allowances rests with the Executive Departments under the provisions of Statute and should be governed by legislative intent. The original statutes viewed these benefits as being recruitment incentives or part of an overall employee compensation package and appear to limit the area of discretion of the Executive and Military Departments.

Thus, Section 101 of PL 86-707 states:

"The Congress hereby declares that it is the purpose of this act to improve and strengthen the administration of overseas activities of the government by—

"(1) providing a means for effectively compensating government employees for the extra costs and hardships incident to their assignments overseas;

"(2) providing for the uniform treatment of government employees stationed overseas to the extent justified by relative conditions of employment;

"(3) establishing the basis for the more efficient and equitable administration of the laws compensating government employees for the extra costs and hardships incident to their assignments overseas; and

"(4) facilitating for the government the recruitment and retention of the best qualified personnel for civilian service overseas."

Despite this clear language, it is not being enforced. As a result, although all overseas teachers share the same conditions of employment and deserve uniform treatment for purposes of compensation, it is now denied the munder the Standardized Regulations promulgated by the State Department and Department of Defense.

It is the view of the State Department that the supplemental compensation provided and defined in the above statutes constitutes an optional tool to attract teachers in the U.S. to overseas service, and should not be considered as an unconditional benefit.

The consequence of such reasoning is to create a special category of overseas teachers, called "local hires", which in effect suffer a second-class status under their conditions of employment.

Representative Patsy T. Mink noted in recent testimony before this subcommittee on similar legislation (H.R. 5619) introduced by her that:

"In practice, most of the local hires are women. They are wives of service members and other Federal employees stationed overseas. Because there is such

a large pool of such dependents available to choose from at any time, the Pentagon finds it cheaper to hire teachers locally rather than to employ them in the United States and then send them overseas with paid travel, housing and other benefits."

The consequences of such discrimination have been amply documented in past oversight and legislative hearings by this committee. For example, when testifying on H.R. 5619 we ourselves urged that these discriminatory conditions be removed for all employees. Passage of H.R. 15003, which provides entitlement to these allowances and benefits regardless of the point of recruitment, would protect the married overseas teacher in the event of: (1) death of spouse; (2) divorce; (3) legal separation; (4) spouse's departure from post or work area permanently; and (5) transformation of either spouse's work location so that they are separated and daily commuting to a common domicile would not be reasonable.

I need not remind this committee this year is our bicentennial and that 1975 was designated "International Women's Year" by the United Nations. In these circumstances it would behoove us to intensify efforts to reexamine those provisions of law and those executive regulations which unfairly discriminate against women in fact if not in form.

In light of the biased and restrictive attitude of the State Department, changes in the original statute would help to reinforce the principle upheld by Comptroller General Warren to the Secretary of War in the CG decision (B-63002) which states housing allowances and differentials in foreign areas should be based on: "living conditions such as isolation, cost of food and shelter, hazard or exposure to abnormal climate or disease, lack of ordinary conveniences," etc.

In addition to the formal position taken by the State Department, undermining the statute, there are personnel practices in force today which hamper its enforcement. The most serious concerns the exploitation of these employees by designating them as "temporary employment" thereby excluding them from the benefits which this bill would reassert.

For our part, we are shocked and appalled at the reliance on numerous "temporary" appointments in light of the large number of unemployed teachers looking for work today. Certainly the supply of qualified professionals is more than ample, and many would welcome the opportunity to pursue a career in the Federal service.

We therefore request that funding be appropriated immediately and the Civil Service Commission and Department of Defense begin preparation of a register encompassing overseas teachers for the coming school year. Overseas "local hires" who are also temporary employees now suffer double discrimination, and this situation can be remedied through application of the merit system principles which have served the nation so well at home.

In addition, in many foreign countries those Americans who have been admitted to residence for study and who take employment are deemed subject to the same tax laws as their own citizens. For this reason, a special problem exists concerning "local hire" American employees who are required to report their earnings and fringe benefits for tax purposes and who must pay import duties on PX and commissary purchases. We believe that this Bill might solve that problem, as is, but to be sure, we recommend that it be amended requiring the State Department to renegotiate its treaties so that these additional benefits be compensated, if possible, as non-taxable by foreign countries.

In conclusion, let me state that the suggestions we have made will benefit all concerned with the quality of education available in the Department of Defense Overseas dependent schools: the teachers, the parents, but most of all, the children. As long as serious inequalities in allowances and benefits between groups of teachers continue to exist, and significant numbers of "temporary employees" are denied the opportunity to qualify for the competitive service, the morale, stability, and quality of the teaching workforce will continue to suffer.

[H.R. 15003, 94th Cong., 2d sess.]

A BILL To require that the allowances available to a teacher in a Department of Defense overseas dependents' school shall be provided without regard to the location at which the teacher was recruited

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901 and following) is amended by redesignating section 12 as section 13 and by inserting after section 11 the following new section:

"ALLOWANCES AND OTHER BENEFITS TO BE AVAILABLE WITHOUT REGARD TO PLACE
OF RECRUITMENT

"SEC. 12. Any determination of a teacher's entitlement to any allowance or other benefit under this Act (or under chapter 57 of title 5, United States Code) shall be made without regard to whether the teacher was recruited outside or inside of the United States."

SEC. 2. The amendments made by this Act shall take effect ninety days after the date of the enactment of this Act, and shall apply with respect to teachers recruited on, before, or after such date.



ALLOWANCE AND OTHER BENEFITS TO BE PAID WITHOUT REGARD TO THIS

CONTRACT

That if any provision of a teacher's contract in any school or other agency under the Act (hereinafter referred to as "contract") shall be made without regard to whether the teacher was recruited outside of the United States.

It is the intent of the Act that any provision of a contract shall be made without regard to whether the teacher was recruited outside of the United States.