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COMMITTEE PRINT

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DOCUMENTS

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OF THE

COMMITTEE ON POST OFFICE  
AND CIVIL SERVICE  
HOUSE OF REPRESENTATIVES

DURING THE

NINETY-FIFTH CONGRESS

FIRST SESSION



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FEBRUARY 13, 1978

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THE HISTORY OF THE

REVOLUTION

OF THE UNITED STATES OF AMERICA  
IN THE YEAR 1776  
BY  
JOHN ADAMS  
VOLUME I  
CHAPTER I  
The first of the month of July, 1776, was a day of great importance to the American people. It was on this day that the Continental Congress declared their independence from Great Britain. The declaration was a bold and courageous act, and it marked the beginning of a new era in the history of the United States. The Congress, which had been meeting in Philadelphia since September 1774, had spent several months in debate over the issue of independence. Finally, on July 2nd, the Congress voted in favor of independence, and on July 4th, the Declaration of Independence was adopted. The document, written by Thomas Jefferson, declared that the thirteen colonies were no longer part of the British Empire, but were now free and independent states. The declaration was a landmark event, and it inspired the people of the United States to fight for their freedom and independence.

CHAPTER II

The second of the month of July, 1776, was a day of great importance to the American people. It was on this day that the Continental Congress adopted the Declaration of Independence. The document, written by Thomas Jefferson, declared that the thirteen colonies were no longer part of the British Empire, but were now free and independent states. The declaration was a landmark event, and it inspired the people of the United States to fight for their freedom and independence. The Congress, which had been meeting in Philadelphia since September 1774, had spent several months in debate over the issue of independence. Finally, on July 2nd, the Congress voted in favor of independence, and on July 4th, the Declaration of Independence was adopted. The document, written by Thomas Jefferson, declared that the thirteen colonies were no longer part of the British Empire, but were now free and independent states. The declaration was a landmark event, and it inspired the people of the United States to fight for their freedom and independence.

CHAPTER III

The third of the month of July, 1776, was a day of great importance to the American people. It was on this day that the Continental Congress adopted the Declaration of Independence. The document, written by Thomas Jefferson, declared that the thirteen colonies were no longer part of the British Empire, but were now free and independent states. The declaration was a landmark event, and it inspired the people of the United States to fight for their freedom and independence. The Congress, which had been meeting in Philadelphia since September 1774, had spent several months in debate over the issue of independence. Finally, on July 2nd, the Congress voted in favor of independence, and on July 4th, the Declaration of Independence was adopted. The document, written by Thomas Jefferson, declared that the thirteen colonies were no longer part of the British Empire, but were now free and independent states. The declaration was a landmark event, and it inspired the people of the United States to fight for their freedom and independence.

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# LEGISLATIVE AND REVIEW ACTIVITIES OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

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95TH CONGRESS, 1ST SESSION

## COMMITTEE JURISDICTION AND ORGANIZATION

Under the Rules of the House for the 95th Congress, the Committee on Post Office and Civil Service had jurisdiction over the U.S. Postal Service; the Postal Rate Commission; the Federal Civil Service including the compensation, retirement, and other benefits of Federal employees and intergovernmental personnel; the Census and the collection of statistics; holidays and celebrations; and population and demography.

Under Public Law 93-191, an act to clarify the proper use of the franking privilege by Members of Congress, the committee has the responsibility for providing facilities and professional staff assistance to the House Commission on Congressional Mailing Standards, the members of which were appointed on January 29, 1975.

The legislative and review accomplishments of the committee and its subcommittees are set forth in this document.

The first session of the 95th Congress was one of the most active and productive years in the history of the Committee on Post Office and Civil Service. During these 11 months, the committee has conducted far-reaching investigations into a wide variety of matters within its jurisdiction and has recommended a broad array of remedies and solutions to many aspects of governmental problems. Included within the wide spectrum of activity has been the extension of the Social Security Act to employees in the Federal civil service, revisions of the Hatch Act restricting the political activities of Federal, State and local governments, executive and supergrade positions in the new Department of Energy, postal reorganization, census operations, discrimination against employees on account of age, employment of retired military personnel in civilian positions in the Federal Government, and improved opportunities regardless of race or national origin. The committee has held 53 separate hearings for a total of 116 days of public hearings and has reported a total of 25 public bills and resolutions to the House. Five bills referred to the committee have been enacted into public law and 11 other bills are pending for consideration in the Senate.

The broad range of activity began after the election of Representative Robert N. C. Nix to be chairman of the Committee on Post Office and Civil Service on January 19, 1977. Chairman Nix succeeded to the position previously held by Representative David Henderson of

North Carolina who retired as a Member of Congress with the conclusion of the 94th Congress. Chairman Nix initiated several reforms in committee organization and structure. Under the new organization, the committee is composed of seven standing subcommittees, among which the jurisdiction of the committee is divided. The subcommittees include the Subcommittee on Investigations, the Subcommittee on Compensation and Employee Benefits, the Subcommittee on Employee Ethics and Utilization, the Subcommittee on Civil Service, the Subcommittee on Postal Operations and Services, the Subcommittee on Postal Personnel and Modernization, and the Subcommittee on Census and Population.

#### SEQUENTIAL REFERRALS

An important aspect of the committee's operation during the first session of the 95th Congress has been the sequential referral of legislation involving matters within the jurisdiction of the committee. Three major bills involving subjects pertinent to the Committee on Post Office and Civil Service were considered in 1977: The social security amendments, the creation of the Department of Energy, and the Age Discrimination Act. In each case, Chairman Nix advised the leadership of the House of the committee's responsibility and in each case the legislation was referred to the committee for its consideration.

Perhaps the most important example of the committee's role in sequential referral was the committee's consideration of the social security bill, H.R. 9346. This legislation, designed to improve the financial condition of the social security trust fund, was amended in committee to make employees in the Federal civil service subject to the social security program. Upon the adoption of this amendment by the Committee on Ways and Means, Chairman Nix advised Chairman Ullman and the Speaker of this committee's jurisdiction over matters relating to civil service employees and the civil service retirement system. Subsequently, H.R. 9346 was referred to the Committee on Post Office and Civil Service on October 12, 1977. On October 13, the committee unanimously voted to report the bill with an amendment striking out the mandatory coverage for Federal employees. The committee amendment recommended that an immediate study be undertaken to determine what should be done to coordinate the social security coverage with civil service retirement coverage. In consideration on the floor of the House of Representatives, an amendment similar to the committee's recommendations was adopted.

H.R. 6804, creating the Department of Energy, was sequentially referred to the Committee on Post Office and Civil Service on May 16, 1977. The committee reported the bill with amendments on May 18. The committee amendments related to appointment authority of the Secretary of Energy, supergrade and scientific professional positions in the new department, applicability of the Hatch Act, employment of hearing examiners, and intergovernmental personnel activities. The amendments recommended by the committee were adopted by the House.

The Age Discrimination Act, H.R. 5383, was referred to the committee on July 25, 1977. Following discussions between the leadership of this committee and the Committee on Education and Labor, the committee relinquished jurisdiction over the bill and amendments

relating to mandatory retirement for Federal employees were adopted on the floor of the House. The amendments provided for the elimination of the mandatory retirement provisions in Federal employment at age 70, but did not remove the mandatory retirement requirements for specific occupations, such as law enforcement employees and air traffic controllers.

#### SATURDAY MAIL DELIVERY

In December 1977, the committee began a series of nationwide hearings on whether the public is willing to give up having mail delivered to businesses and private residences on Saturday.

The stimulus for these hearings was a recommendation by the Commission on Postal Service, a study commission created by Public Law 94-421, to abolish Saturday delivery in order to reduce postal costs. The Commission supported its recommendation on the basis of an estimate by the Postmaster General that more than \$400 million could be saved if Saturday delivery were eliminated and also by a public opinion survey conducted by the A. C. Nielsen Company which showed that 80 percent of the individuals interviewed were willing to give up Saturday delivery as a means of holding down postal costs. Immediately after the Commission's recommendation in April, the Postmaster General initiated action to eliminate Saturday delivery. The Committee on Post Office and Civil Service responded by recommending House Concurrent Resolution 277, which expressed the sense of the Congress that Saturday mail delivery be continued. This concurrent resolution passed the House by a vote of 377 to 9 on September 26, 1977. Subsequently, Chairman Nix introduced H.R. 9146, cosponsored by 23 members of the committee. This legislation would require that changes in the nature and type of postal services could not be made by the Postal Service until the proposed change had been considered by the Congress. This legislation was unanimously approved by the committee on October 18, 1977, and is pending on the Union Calendar.

The controversy over what the American people want in the way of postal services cannot be resolved by a public opinion poll conducted by a short-term study commission, and the Postmaster General's point of view is necessarily oriented toward reducing costs. Postmaster General Bailar has testified before the committee and its subcommittees on numerous occasions that his efforts to reduce costs and eliminate jobs will continue.

To gain firsthand evidence of public opinion, the committee held hearings in November and December in Denver, Colo., Honolulu, Hawaii, Great Bear State Park, N.Y., and Philadelphia, Pa. In January 1978, the committee held hearings in El Paso, Tex., Alhambra, Calif., Davenport, Iowa; Pontiac, Oak Forest, and Chicago, Ill., and Ocean Springs, Miss. Prior to each of the public hearings in each of these locations, members of the committee representing the district mailed a questionnaire to thousands of local residents asking their opinion as to whether Saturday mail delivery should be retained or whether it should be discontinued in an effort to reduce postal costs. So far, the response of the public has been between 3 to 1 and 7 to 1 in favor of continuing Saturday mail service. The public has expressed skepticism about the ability of the Postal Service to save \$400 million

or any other amount of money, and even among those who favor discontinuing Saturday service, many answers have been qualified by an insistence upon demonstrated savings.

The committee will have a wealth of evidence to advise the House as to the level of postal services which the public prefers. The Postmaster General has on many occasions stated that the Postal Service is ready, willing, and able to provide any level of service which the American people want and are willing to pay for. The committee intends to provide that information.

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LEGISLATION APPROVED BY THE COMMITTEE

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PUBLIC LAWS

Public Law 95-66

EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARIES

Purpose: Provides that the salaries established by operation of the authority of the President under section 225 of Public Law 90-206, shall not be adjusted by the comparability pay increase effective October 1, 1977.

*Legislative history: S. 964*

March 10, 1977. Passed Senate.

June 23, 1977. Reported, House Report 95-458.

June 28, 1977. Passed House under suspension of rules.

July 11, 1977. Signed.

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Public Law 95-72

NATIONAL LUPUS WEEK

Purpose: To designate the week of September 18-24 as National Lupus Week.

*Legislative history: House Joint Resolution 24*

June 30, 1977. Reported, House Report 95-478.

July 11, 1977. Passed House.

July 13, 1977. Passed Senate.

July 25, 1977. Signed.

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Public Law 95-91

DEPARTMENT OF ENERGY

Purpose: To establish a Department of Energy.

*Legislative history: S. 826*

House Reports 95-346 and 95-539.

Senate Reports 95-184 and 95-367.

May 18, 1977. Passed Senate.

June 3, 1977. Passed House.

August 2, 1977. Conference report adopted.

August 4, 1977. Signed.

**Public Law 95-100****NATIONAL FAMILY WEEK**

Purpose: To designate the week in which Thanksgiving Day occurs as National Family Week.

*Legislative history: House Joint Resolution 372*

July 18, 1977. Passed House.

August 4, 1977. Passed Senate.

August 15, 1977. Signed.

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**Pubic Law 95-138****SALARIES OF THE STAFF OF FORMER PRESIDENTS**

Purpose: To authorize additional staff for former Presidents during the first 30 days after their term of office.

*Legislative history: H.R. 9354*

September 30, 1977. Passed House.

October 4, 1977. Passed Senate.

October 18, 1977. Signed.

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**Pubic Law 95-197****NATIONAL DAY OF PRAYER**

Purpose: To designate December 15, 1977 as National Day of Prayer.

*Legislative history: Senate Joint Resolution 81*

September 22, 1977. Passed Senate.

November 4, 1977. Passed House.

November 21, 1977. Signed.

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**Public Law 95-216****SOCIAL SECURITY AMENDMENTS**

Purpose: To make various amendments that will strengthen the financing of the social security system and to provide a study commission to consider the coverage under the system of Federal and State employees.

*Legislative history: H.R. 9346*

October 27, 1977. Passed House.

November 4, 1977. Passed Senate.

December 20, 1977. Signed.

**LEGISLATION PASSED BY THE HOUSE AND PENDING IN  
THE SENATE**

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**H.R. 2931**

**HEALTH INSURANCE**

Purpose: To preempt State laws relating to health insurance contracts under the Federal Employees Health Benefits Act.

*Legislative history*

May 10, 1977. Reported, House Report 95-282.  
June 20, 1977. Passed House.

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**H.R. 3447**

**RETIREMENT ANNUITIES**

Purpose: To grant civil service annuitants a right to elect to create a survivor annuity in the case of marriage after retirement.

*Legislative history*

May 10, 1977. Reported, House Report 95-283.  
June 6, 1977. Passed House.

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**H.R. 4319**

**HEALTH AND LIFE INSURANCE**

Purpose: To permit employees who retire after 5 years of service to retain life and health insurance.

*Legislative history*

May 10, 1977. Reported, House Report 95-284.  
July 18, 1977. Passed House.

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**H.R. 10**

**HATCH ACT**

Purpose: To permit Federal employees to participate in partisan political activities.

*Legislative history*

May 12, 1977. Reported, House Report 95-292.  
June 7, 1977. Passed House.

**H.R. 6975****HEARING EXAMINERS**

**Purpose:** To increase by 100 the number of hearing examiners in the executive branch.

*Legislative history*

May 16, 1977. Reported, House Report 95-321.

July 18, 1977. Passed House.

**H.R. 7012****AGRICULTURE CENSUS**

**Purpose:** To reduce the number of questions in the Census of Agriculture.

*Legislative history*

May 26, 1977. Reported, House Report 95-371.

July 18, 1977. Passed House.

**H.R. 3755****CIVIL SERVICE RETIREMENT**

**Purpose:** To reinstate survivor annuities for surviving spouses who remarried prior to July 18, 1966.

*Legislative history*

June 30, 1977. Reported, House Report 95-475.

July 18, 1977. Passed House.

**H.R. 7132****POSTAL SUPERVISORS**

**Purpose:** To establish an arbitration procedure for postal supervisors.

*Legislative history*

August 4, 1977. Reported, House Report 95-567.

September 26, 1977. Passed House.

**House Concurrent Resolution 277****SATURDAY MAIL DELIVERY**

**Purpose:** To express the sense of the Congress that the frequency of mail delivery should not be reduced.

*Legislative history*

August 4, 1977. Reported, House Report 95-568.

September 26, 1977. Passed House.

**H.R. 5054****APPORTIONMENT OF FEDERAL POSITIONS**

Purpose: To repeal the requirement that positions in the executive branch be apportioned according to the population of the States of the United States.

*Legislative history*

September 3, 1977. Reported, House Report 95-593.  
September 19, 1977. Passed House.

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**H.R. 8342****CITY WITHHOLDING TAXES**

Purpose: To permit the withholding of taxes from Federal employees' salaries for local taxes.

*Legislative history*

September 7, 1977. Reported, House Report 95-594.  
September 19, 1977. Passed House.

REPORT OF THE COMMISSIONERS OF THE LAND OFFICE

In accordance with the provisions of the Land Act, 1897, the following is a statement of the land in the Colony of New Zealand, which has been surveyed and is available for disposal.

The land is divided into three classes, namely, Crown land, land reserved for the Government, and land reserved for the public.

The total area of land available for disposal is 1,000,000 acres.

The land is available for disposal at a price of 10/- per acre.

The land is available for disposal in blocks of 100 acres or more.

The land is available for disposal in blocks of 50 acres or more.

The land is available for disposal in blocks of 20 acres or more.

The land is available for disposal in blocks of 10 acres or more.

The land is available for disposal in blocks of 5 acres or more.

The land is available for disposal in blocks of 2 acres or more.

The land is available for disposal in blocks of 1 acre or more.

The land is available for disposal in blocks of 1/2 acre or more.

The land is available for disposal in blocks of 1/4 acre or more.

The land is available for disposal in blocks of 1/8 acre or more.

The land is available for disposal in blocks of 1/16 acre or more.

The land is available for disposal in blocks of 1/32 acre or more.

The land is available for disposal in blocks of 1/64 acre or more.

The land is available for disposal in blocks of 1/128 acre or more.

The land is available for disposal in blocks of 1/256 acre or more.

The land is available for disposal in blocks of 1/512 acre or more.

## BILLS PENDING IN THE HOUSE OF REPRESENTATIVES

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### H.R. 2387

#### EXECUTIVE OFFICERS

**Purpose:** To increase the salaries of the Director and Deputy Director of the Office of Management and Budget.

*Legislative history*

May 16, 1977. Reported, House Report 95-320.

July 18, 1977. Failed to pass the House under suspension of the rules.

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### H.R. 6974

#### SUPERGRADES

**Purpose:** To increase the number of positions in grades 16, 17, and 18, of the General Schedule in the Administrative Office of the United States Courts.

*Legislative history*

May 16, 1977. Reported, House Report 95-322.

July 18, 1977. Failed to pass the House under suspension of the rules.

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### H.R. 6954

#### EMPLOYEE ETHICS

**Purpose:** To preserve and promote ethical standards in the executive branch of the U.S. Government.

*Legislative history*

September 28, 1977. Reported, House Report 95-642.

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### H.R. 8771

#### GARNISHMENT

**Purpose:** To authorize the Civil Service Commission to withhold from civil service retirement annuities amounts authorized by court decrees in connection with divorce, annulment, or legal separation.

*Legislative history*

October 17, 1977. Reported, House Report 95-713.

**H.R. 9282****CONGRESSIONAL PAY**

**Purpose:** To postpone the effective date of increases in the pay of Members of Congress until after a general election has occurred.

*Legislative history*

October 18, 1977. Reported, House Report 95-717.

November 1, 1977. Failed to pass the House under suspension of the rules.

**H.R. 5723****SOCIAL SECURITY HEARING EXAMINERS**

**Purpose:** To permit the appointment of certain Social Security Administration hearing examiners to administrative law judges.

*Legislative history*

October 31, 1977. Reported, House Report 95-617.

**H.R. 9471****CIVIL SERVICE RETIREMENT**

**Purpose:** To permit civil service retirement credit for Japanese-Americans who were interned during the Second World War.

*Legislative history*

November 1, 1977. Reported, House Report 95-789.

**H.R. 9146****POSTAL SERVICES**

**Purpose:** To provide for congressional review of proposed changes in postal services.

*Legislative history*

November 2, 1977. Reported, House Report 95-796.

**H.R. 7700****POSTAL SERVICE**

**Purpose:** To amend the Postal Reorganization Act to increase the public service appropriation to the Postal Service, to revise the method of fixing postal rates, to provide for the appointment of the Postmaster General by the President, and for other purposes.

*Legislative history*

November 3, 1977. Reported, House Report 95-808.

## SUBCOMMITTEE ACTIVITIES

### SUBCOMMITTEE ON INVESTIGATIONS

The subcommittee's jurisdiction empowers it to review and study on a continuing basis, the application, administration, and execution of statutes, the subject matter of which is within the jurisdiction of the committee.

During the 1st session of the 95th Congress, the subcommittee reviewed the following seven matters:

(1) The downgrading of Federal employees positions within the Federal civil service;

(2) The payment of "Dual Compensation" to retired military personnel holding Federal civilian positions;

(3) The proposed transfer of the South Suburban Postal Facility from Chicago, Ill. to Forest Park, Ill.;

(4) A continuing inquiry into the impact on employees of the closure of the Department of the Army's Frankford Arsenal;

(5) A review of the effectiveness of Equal Employment Opportunity programs within Federal agencies;

(6) A review of the cooperation between the U.S. Civil Service Commission office in Jackson, Miss. and the Department of the Navy personnel office at Bay St. Louis, Miss.; and

(7) A review of the implementation of "Fitness for Duty" regulations which may result in separation of employees from the Federal service.

#### THE DOWNGRADING OF FEDERAL EMPLOYEE POSITIONS

There is evidence that from 50,000 to 100,000 employee positions within the Federal service are overgraded. An executive branch program on an agency by agency basis of the grade structure resulted in a large number of downgrading actions which had a serious adverse impact on employee morale. The subcommittee staff conducted an on-site inquiry into specific problems with the adequacy and application of Civil Service Commission wage grade job standards at the Philadelphia Naval Shipyard and the Naval Rework Facility at Alameda, Calif.

The subcommittee report on "Downgrading in the Federal Civil Service" was adopted by the Committee on Post Office and Civil Service and issued as a Committee print on June 17, 1977.

The report made the following recommendations:

(1) Enactment of H.R. 6953, introduced by Hon. Robert N. C. Nix and Hon. Gladys Noon Spellman, which provides for the retention of grade for an employee in a position downgraded by reclassification action for as long as an employee continues in that position and would eliminate the grounds for reduction in rank or pay appeals in such cases;

- (2) A Government-wide moratorium on downgradings pending enactment of H.R. 6953 or similar legislation;
- (3) Immediate action by executive agencies and the Civil Service Commission to identify classification deficiencies;
- (4) Implementation of effective position management controls in all agencies with strict sanctions of Federal managers (personnel and otherwise) who violate such controls; and
- (5) Immediate action by the Civil Service Commission to provide effective training and education for position classification specialists in the proper application of standards.

#### DUAL COMPENSATION-RETIRED MILITARY PERSONNEL IN FEDERAL CIVILIAN POSITIONS

The subcommittee held 3 days of hearings on July 26, 28, and September 21, 1977, on the question of the employment of retired military in Federal civilian positions. The central issue dealt with by the subcommittee was whether or not the payment of both a military retirement and a Federal civilian salary to reemployed annuitants had an adverse impact on the budget and the morale of civilian employees of the Federal Government.

The hearings established that there are more than 141,000 retired military now holding jobs in the Federal Government and there may be as many as 10 retired generals and admirals whose combined military pension and Federal civilian salary exceed the total salary paid the Vice President and Chief Justice of the Supreme Court and as many as 25 or more receive a salary more than the members of the President's Cabinet.

A report is being prepared by staff personnel on the various legislative position open to the Congress in dealing with this problem including the cost impact of each position.

#### TRANSFER OF SOUTH SUBURBAN POSTAL FACILITY TO FOREST PARK, ILL.

On April 12, 13, and 14, 1977, subcommittee investigators interviewed postal personnel citizen groups and local officials on the prospect of the transfer of South Suburban facility to a new location in the suburbs of Chicago, at Forest Park, Ill. There was considerable opposition to the transfer by postal employee groups, citizen groups in Chicago and Forest Park as well as opposition expressed by city officials in both Chicago and Forest Park.

On August 8, 1977, a hearing was held in the Everett Dirksen Federal Building in Chicago during which time, testimony was taken from 26 witnesses on the transfer. Employee and community groups were represented.

The Postal Service after successful negotiations with the village of Forest Park, sold its site to the village and is now considering sites within the city limits of Chicago for a new South Suburban facility.

#### THE IMPACT ON EMPLOYEES OF THE CLOSURE OF THE FRANKFORD ARSENAL

The subcommittee staff constantly reviews the reemployment situation of former Department of Army employees who are seeking new

positions with the Federal Government after the closure of the Frankford Arsenal. Many of these employees are still seeking positions in the Philadelphia area which was the site of the Frankford Arsenal.

#### EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

The subcommittee staff initiated a study in December 1977, on the classification of Equal Employment Opportunity officers who are classified as personnel officers rather than establishing a separate classification for them. The argument for such a classification is based on the need for independence in judgment and action by equal employment officers in that their efforts very often result in implied criticism of personnel managers.

#### A REVIEW OF THE COOPERATION BETWEEN THE U.S. CIVIL SERVICE OFFICE IN JACKSON, MISS., AND THE DEPARTMENT OF THE NAVY PERSONNEL OFFICE

A review of the cooperation between the U.S. Civil Service Commission office at Jackson, Miss. and the personnel office at Bay St. Louis, U.S. Navy installation was conducted. Subcommittee staff personnel conducted on-site visits on May 3, 4, 5, and 6, 1977, at the Bay St. Louis, naval installation, Keesler Air Force Base, Biloxi, Miss., and the Jackson, Miss., U.S. Civil Service office and the Atlanta, Ga., U.S. Civil Service regional office in order to ascertain what foundation there were to allegations of noncooperation between the Civil Service Commission and the Defense Department agencies in that State.

Personality conflicts had arisen as the result of the failure of the Jackson, Miss., Civil Service office to inform personnel offices at Bay St. Louis and Keesler Air Force Base of what positions had been certified for employment at each of these facilities. The personnel offices at Keesler Air Force Base and at Bay St. Louis would learn of such openings by means of media announcements rather than direct contact. In addition, disputes had arisen as to the ability of the U.S. Naval installation to fill slots on a temporary basis while the Navy installation at Suitland, Md., continue to perform a portion of the mission assigned to the newly established base at Bay St. Louis. The disagreements between the State and regional Civil Service Commission offices and the Bay St. Louis naval installation has now reached the highest levels of the U.S. and regional Civil Service Commission and the Department of the Navy in Washington, D.C. The subcommittee continues its review of this situation.

#### "FITNESS FOR DUTY"

In cooperation with the staff of the Subcommittee on Compensation and Employee Benefits, the staff of the Subcommittee on Investigations has initiated a study of the ramifications of a General Accounting Office report, B-179810, "Extent of Use and Application of Fitness for Duty examination by Federal agencies." On December 20, and 21, 1977, a staff member of each subcommittee interviewed employee organization and management officials at the Northeastern Program Service Center, Social Security Administration, New York City, N.Y., in regard to the application of "Fitness for Duty" examinations which

could lead to mandatory separation and/or retirement for physical, emotional or psychological handicaps. The test for the correct application of such procedures in the Federal personnel manual is the efficiency of the service. The subcommittee staff has also contacted the office of Hon. Walter E. Fauntroy, Delegate from the District of Columbia, who has conducted ad hoc hearings on this matter. The subcommittee is continuing its review of this issue in preparation for hearings in early 1978.

## SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS

During the first session of the 95th Congress the subcommittee met 47 times to consider various pieces of legislation and carry out its oversight responsibilities.

The following is a schedule of the various pieces of legislation considered by the subcommittee.

H.R. 2931, a bill to amend chapter 89, United States Code, to establish uniformity in Federal employee health benefits and coverage provided pursuant to contracts made under such chapter by preempting State or local laws pertaining to such benefits and coverage which are inconsistent with such contracts. This bill was passed by the House and is pending in the Senate.

H.R. 3447, a bill to amend chapter 83, United States Code, to grant an annuitant the right to elect within one year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor annuity, and to eliminate the annuity reduction made by an unmarried annuitant to provide a survivor annuity to an individual having an insurable interest in cases where such individual predeceases the annuitant. This bill was passed by the House and is pending in the Senate.

H.R. 9471, a bill to give certain Japanese-American citizens civil service retirement credit for periods spent in World War II internment camps. This bill passed the Post Office and Civil Service Committee and is pending in the House.

H.R. 4319, a bill to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes. This bill passed the House and is pending in the Senate.

H.R. 8771, a bill to allow Civil Service Commission to honor State court decrees relating to property settlements and Federal annuities. This bill passed the Post Office and Civil Service Committee and is pending in the House.

H.R. 3755, a bill to provide for the reinstatement of civil service retirement survivor annuities for certain widows and widowers whose remarriages occurred before July 18, 1966, and for other purposes. This bill passed the House and is pending in the Senate.

H.R. 3139, a bill to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes. Subcommittee hearings are completed, but in light of the administration's opposition, no further action is scheduled unless the Senate acts.

H.R. 9279, a bill to amend title 5, United States Code, to provide for grade and pay retention benefits for certain employees whose positions are reduced in grade, or for employees who are reassigned to lower grade positions, and for other purposes. This bill passed the Post Office and Civil Service Committee and is pending in the House.

H.R. 7945, a bill to amend title 5, United States Code, to repeal the provisions therein requiring mandatory separation of employees who reach age 70. This bill was incorporated in H.R. 5283, reported favorably by the Education and Labor Committee, passed the House and is pending in the Senate.

H.R. 3698, 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. Subcommittee hearings are completed and this bill is awaiting mark up.

H.R. 9603, a bill to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of certain Federal laws allowing employment preference to Indians, and for other purposes. This bill was reported out of the Post Office and Civil Service Committee and is awaiting joint action by the Interior Committee.

H.R. 4320, a bill to amend chapter 83, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes. Hearings have been completed and the bill is awaiting mark up.

*Wage grade pay system.*—In addition to considering the above bills, the subcommittee continued the wage grade (blue-collar) hearings, which started in the 94th Congress. The continuation of the hearings was necessitated by the fact that President Carter's budget message to the Congress encompassed wholeheartedly the recommendations of the Rockefeller Pay Panel Report and the recommendations contained therein as regards the wage grade pay system. The subcommittee concluded five field hearings on this subject matter in Washington, D.C., on December 6, 1977, and is presently waiting for all materials requested before proceeding further.

*Mandatory retirement.*—The subcommittee engaged itself in a great deal of activity over the issue of mandatory retirement and worked closely with the Education and Labor Committee on H.R. 5383. In addition to this, the subcommittee concluded six hearings on December 1, 1977, on the necessity of having increased and mandatory early retirement benefits for law enforcement and firefighter personnel.

*Health.*—The subcommittee was extremely active in checking the health cost containment policies of various health carriers under the Federal employee health benefits program. Specifically, the subcommittee looked at Blue Cross/Blue Shield, Aetna, Hawaiian Medical Services Association, and Kaiser. This is a continuing project in which the subcommittee plans to eventually take a look at all seven of the national plans in the program.

*Allowances.*—The subcommittee held two hearings on the alleged discriminatory nature of the dissemination of cost-of-living adjustments. The subcommittee believes this problem can be worked out administratively by the executive branch rather than legislatively and is working toward that end.

The subcommittee plans to take up and consider very few bills during the second session of the 95th Congress, as the majority of its time is scheduled for oversight and investigative activities.



## SUBCOMMITTEE ON EMPLOYEE ETHICS AND UTILIZATION

During the first session of the 95th Congress, the Subcommittee on Employee Ethics and Utilization approved 11 bills. Six of these bills have been reported to the House by the full committee, and of these, two have been passed by the House—one has been signed into law by the President.

The jurisdiction of the subcommittee is as follows: Federal civilian personnel requirements and ceilings; effects of Government reorganization on Federal personnel; manpower utilization; reductions in force; contracting out; rights of privacy; code of ethics; financial disclosure; conflicts of interest; and intergovernmental personnel programs. All matters within the jurisdiction of the subcommittee received review. Major review was carried out on the following matters:

- (1) Ethics and financial disclosure;
- (2) Contracting out;
- (3) Supergrade and executive level positions for the executive and judicial branches;
- (4) Flexible work hours for Federal employees;
- (5) Part-time employment programs for Federal agencies;
- (6) Federal firefighters basic workweek;
- (7) Department of Energy reorganization;
- (8) White House staff authorization;
- (9) Intergovernmental personnel programs; and
- (10) Temporary administrative law judges at the Social Security Administration.

### ETHICS AND FINANCIAL DISCLOSURE

Public financial disclosure for employees in the executive branch is now limited. Section 201(f) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) and sections 601 et seq. of the Department of Energy Organization Act (Public Law 95-91), both very recently enacted, are the only provisions which require public disclosure similar to that required by the reported bill. Public financial disclosure has, of course, been required of numerous Presidential appointees by the congressional committees reviewing their nominations, and President Carter has required public financial disclosure by his White House staff and certain other appointees.

Confidential financial disclosure statements are required of numerous officers and employees in the executive branch. These statements are required to be filed either pursuant to Executive Order No. 11222 (May 8, 1965) or pursuant to regulations issued by executive branch departments and agencies under the authority of that order. This confidential financial disclosure system is intended to prevent conduct

or financial transactions which create either an appearance of impropriety in the use of a position or an actual impropriety, or conflict of interest.

The great number of restrictions which are placed upon employees, the review of financial disclosure forms now filed, and the system in place to administer the ethics program should be quite effective in assuring that conflicts of interest do not occur, that the moneys in the Treasury are not doled out to favorites, and that the public, in dealing with the executive branch, is assured of impartial decisions by Federal employees—decisions free from biases inspired by personal financial situations. Unfortunately, if the general rule is that Federal employees and officers are above reproach—and the subcommittee has no information to contradict this—this is the result of the personal efforts of the employees, not the system. Very simply, the system devised by Executive Order No. 11222 does not work. If anything, it may have a tendency to penalize honest employees who unwittingly report conflicts of interest or other improper conduct, while ignoring those few who abuse it.

In the past 3 years, the General Accounting Office has issued 21 reports on the effectiveness of Executive Order No. 11222, and regulations issued pursuant to it, at various agencies and departments. Among these reports have been two major reports analyzing the executive branchwide program: "Action Needed to Make the Executive Branch Financial Disclosure System Effective" (February 28, 1977, FPCD-77-23) and "Financial Disclosure for High-Level Executive Officials: The Current System and the New Commitment" (August 1, 1977, FPCD-77-59).

The findings of the Comptroller General may be easily summed up. The system requiring Federal employees to report their financial interests is not working as it should. There is no centralized authority with administrative and enforcement authority strong enough to carry out the multiple responsibilities involved in operating a sound financial disclosure system. The executive branch conflict-of-interest program should no longer be managed on an ad hoc basis with limited support and insufficient resources.

The GAO found numerous cases in which employees owned stock or had other financial interests in companies that could conflict with their official duties. Many of these potential conflicts were obvious, yet those who reviewed the statements either did not question them, or, if they did, failed to resolve the potential conflicts. In addition, many employees who were required to file statements failed to do so or filed late. Many others had filed but their statements were missing. Many were not even required to file, although they should have been.

The Subcommittee on Employee Ethics and Utilization conducted extensive hearings (Serial No. 95-8) on these matters. The first 4 days (March 8, 22, 24, and 25) related to H.R. 3829, a bill proposed by the Comptroller General. That measure would establish a Commission on Ethics and Financial Disclosure consisting of members from all three branches of Government. It contains financial disclosure provisions quite similar in principle to those in the committee bill. Its coverage within the executive branch was also quite similar to the committee bill, with the exception that all employees below grade GS-16 could be required to publicly disclose.

The hearings that were held during March provided a discussion of the issues which the subcommittee would later be dealing with and brought into focus the basic problems relating to financial reporting and disclosure and conflicts of interest.

Although the subcommittee received testimony from the Civil Service Commission during the March hearings, the administration had not yet finalized its official position on needed financial reporting legislation. Consequently, further legislative action was postponed pending receipt of the administration's proposal.

On May 3, 1977, President Carter transmitted his message to Congress proposing the Ethics in Government Act. This bill was introduced in the House by Chairman Nix as H.R. 6952 and subsequently by Representatives Rodino, Danielson, and Schroeder as H.R. 6954. These bills were jointly referred to the Committee on Post Office and Civil Service and the Committees on Armed Services and on the Judiciary.

The Subcommittee on Employee Ethics and Utilization held 2 days of hearings on this measure on June 16 and 23, 1977 (Serial No. 95-19), and testimony was received from representatives of the administration, Members of Congress, and various public witnesses. Following markup of the bill on September 8 and 9, the subcommittee approved H.R. 6954, with one amendment striking out titles I and II and inserting a new text therefor, for consideration by the full Post Office and Civil Service Committee. Following 2 days of markup (September 16 and 22) the full committee, on September 22, ordered H.R. 6954 reported in substantially the same form as had been approved by the subcommittee (H. Rept. 95-642, Pt. I).

The committee amendment to H.R. 6954 substitutes an entirely new text for titles I and II of the introduced bill as follows:

#### TITLE I, AS AMENDED

Applies to civilian positions in the executive branch.

Financial reporting and disclosure applies to the President, the Vice President, political appointees, GS-16 (\$39,629) equivalent and above positions and certain lower level employees designated by the Director of Government Ethics (DOGE).

Earned and unearned income, certain gifts, property (real and personal) held in a trade or business, previous employment, certain liabilities, and agreements for post-government employment must be reported.

Amount or value of financial interests reported will be by category of value (COV), except that the exact amount of earned income must be reported.

Identity and COV of financial interests of spouse and immediate family must be reported (amount of earned income not required).

Reports filed annually and 30 days after assuming or leaving a covered position.

Reports reviewed by DOGE for high level positions, and by agency ethics counselors for other positions.

Public disclosure:

(A) Full public disclosure for executive level and above positions and political appointees.

(B) Disclosure of identities of financial interests (but not COV) for career supergrades and equivalent positions.

(C) Reports of lower level employees will be confidential. \$5,000 civil fine for failure to file or falsifying information.

#### TITLE II, AS AMENDED

Establishes an Office of Government Ethics within CSC, a Director (Presidential appointment, Senate confirmation) and up to 75 agency ethics counselors.

Director responsible for financial reporting and disclosure and conflict-of-interest program in executive branch.

Ethics counselors under supervision and control of Director, and assigned to agencies on rotating basis.

Regulations of the Director promulgated subject to the APA, CSC approval, and one-House veto.

Authorizes 1 million plus for program and pay for ethics counselors.

#### TITLE III

Amends section 207 of title 18, United States Code, relating to criminal prohibitions against certain activities by former officers and employees of the Government.

Early House floor action in the second session is expected on this measure. In addition, the subcommittee plans further review and legislation next year regarding a statutory code of conduct for Federal employees.

#### CONTRACTING OUT

There is no direct statutory pronouncement as to when, under what circumstances, and to what degree Government needs for supplies or services are to be met by the private sector. Instead, contracting out for most goods and services is governed by the policy guideline issued by the Office of Management and Budget (OMB) known as Circular A-76.

Because few—either favoring or opposing contracting out—have ever been satisfied with Circular A-76, it has gone through revisions over the years. In August of 1976, OMB increased the “load” factor which must be added on to the salary of a Government worker whose job is considered for contracting out from 7 percent to 24.7 percent. This change made nearly every Federal job susceptible to what appeared to be less expensive private sector performance. Also in August of 1976, President Ford ordered each Federal agency to identify five of its functions which could be likely candidates for contracting out.

The change in load factor in Circular A-76, coupled with the Presidential initiative, resulted in a large increase in contracting out, and consequently, in Federal employee job losses. The effects of the resultant reductions-in-force on Federal employee moral layoff impacts on unemployment, and the effects on private sector competition, and private sector investment opportunities caused the subcommittee great concern.

To better understand the ramifications of the new developments, the subcommittee initiated an extensive investigation into contracting out which included 2 days of hearings in March (Serial No. 95-7). As promised to the subcommittee at these hearings, OMB began to make changes in the overall policy guidelines of Circular A-76; the most important of which, as evidenced in the hearings, was an interim reduction of the load factor from 24.7 percent to 14.1 percent adopted on June 13, 1977.

To further examine contracting out developments, the subcommittee held a second round of four hearings in July (Serial 95-29), which began with a field hearing in Denver, Colo. During these hearings the subcommittee investigated such issues as the impact of contracting out r.i.f.'d Federal employees, whether or not the taxpayers save money by contracting out, whether or not private contractors perform as well as Government workers, whether or not all potential private contractors

were in the position to obtain contracts, and whether or not contracting out certain functions might impair national security or independent policymaking by the Government. These hearings disclosed a uniform complaint among those favoring more and favoring less contracting out: That the ever shifting and secretive executive branch policies on contracting out caused financial waste and made it impossible for Federal employees and contractors alike to plan without disruptions.

On November 21, 1977, after further consultation with the subcommittee, OMB issued proposed changes in contracting out policy. These changes are now in the comment stage. The subcommittee plans further investigation into contracting out.

#### NEW POSITIONS

The subcommittee's jurisdiction includes allocation, evaluation and utilization of employees in the civil service. Positions in the supergrade (GS-16 through 18) and executive schedule must be created through statutory authority. The subcommittee dealt with numerous requests for new positions and modifications of positions:

##### *Increase in executive levels of Director and Deputy Director of the Office of Management and Budget*

H.R. 2387, as introduced, would increase the salaries of the Director and Deputy Director of the Office of Management and Budget and the Chairman and Board of Governors of the Federal Reserve System. The Director and Chairman would be compensated at executive level I positions and the Deputy Director and Board of Governors at executive level II.

The subcommittee held hearings on May 3 and 4 (serial No. 95-9), hearing from the Civil Service Commission (speaking for the administration), and a member of the Board of Governors of the Federal Reserve System. At a later date, the President sent a letter to the chairwoman noting his support for the salary increase for the Director of the OMB.

On May 5, the subcommittee by a unanimous voice vote ordered H.R. 2387 reported with an amendment. The amendment deleted the salary increases for the Chairman and the Board of Governors of the Federal Reserve System. However, a clean bill, H.R. 6981, which increased the compensation for the Federal Reserve Board Chairman and Governors, was also ordered reported to the full committee.

On May 11, the full committee, by unanimous consent, ordered H.R. 2387 reported (report No. 95-320) to the House floor for consideration. The bill was placed on the Suspension Calendar but failed to pass by a vote of 253 yeas and 158 nays on July 18.

##### *Increase in executive levels of Chairman and Board of Governors of the Federal Reserve System*

H.R. 6981 would increase the salary of the Chairman and Board of Governors of the Federal Reserve System.

The subcommittee, as stated above, ordered the bill reported to the full committee on May 5. The full committee on May 11 delayed action on this bill after receiving communications from the Federal Deposit Insurance Corporation and the Federal Home Loan Bank. Both agen-

cies requested salary increases for their own top level officials so that they would be compensated at the same level as the Federal Reserve System members.

Additional hearings are planned on these matters.

*Increase in supergrade positions at the Administrative Office of U.S. Courts*

H.R. 6974 would increase the number of positions which may be placed in grades 16, 17, and 18 of the General Schedule by the Director of the Administrative Office of U.S. Courts (AOUSC).

The subcommittee held hearings on this bill on May 3 and 5 (serial No. 95-9). Favorable testimony was received from the Civil Service Commission and the AOUSC. By a unanimous voice vote, the subcommittee ordered H.R. 6974 reported on May 5. On May 11, the full committee ordered H.R. 6974 reported (report No. 95-322) by unanimous consent. It was considered under suspension of the rules on July 18 but failed to pass by a vote of 184 yeas to 244 nays.

*Increase in the number of GS-16 administrative law judges in the Civil Service Commission pool*

H.R. 6975 would increase the Administrative Law Judge pool at the Civil Service Commission from 240 to 340.

On May 3, the subcommittee held hearings on the bill and received testimony from the Civil Service Commission. On May 5, the subcommittee unanimously reported H.R. 6975 to the full committee for consideration. On May 11, the full committee by unanimous consent ordered H.R. 6975 reported (report No. 95-321). On July 18, under the suspension of the rules, the House passed this bill by a vote of 248 yeas to 131 nays.

The bill is presently pending before the Senate Government Affairs Committee's Subcommittee on Civil Service. On October 28th that subcommittee held hearings on the bill.

*Executive level positions at the Department of Health, Education, and Welfare*

There is no bill pending on this subject matter. In a letter from the Department (Executive Communication No. 589), a request was made to provide nine executive level positions in the Department. During the subcommittee hearings (serial No. 95-9) on May 5, this request was reduced to six during testimony presented to the subcommittee by the Department.

The Department's request involved the following: New executive level V positions for the Commissioner on Aging; the Deputy Commissioner of the Social Security Administration; and the Assistant Secretary, Comptroller. Executive level IV positions include the Administrator of Alcohol, Drug Abuse, and Mental Health Administration; the Administrator of Health Services Administration; and the Administrator of Social and Rehabilitation Services.

No further action was taken on this matter. The subcommittee believed that action with regard to these positions was premature in view of the Department's reorganization plans.

*Personnel at the National Oceanic and Atmospheric Administration*

On November 3, 1977, the Senate attached a floor amendment to H.R. 9794, a bill dealing with a General International Fishing Agreement with Mexico, which caused the subcommittee great concern. This amendment created two new executive level positions, removed civil service protection from three other executive level positions, and created eight new supergrades (GS-16 through 18) positions excepted from the civil service laws the National Oceanic and Atmospheric Administration (NOAA).

As H.R. 9794 had already passed the House, there was no opportunity for referral of the measure to the Post Office and Civil Service Committee. However, on November 18, Chairman Nix wrote to Congressman John Murphy, chairman of the Merchant Marine and Fisheries Committee, expressing his opposition to the amendment and on November 29, Subcommittee Chairwoman Schroeder testified before that committee in opposition to the amendment. Subsequently, a compromise amendment was developed in consultation between the two committees—its main thrust being a change in the creation of the supergrade positions to assure Civil Service Commission control of them by placing these slots in the Civil Service Commission supergrade position pool. This amendment was then adopted by the House. The bill is now in the Senate.

## FLEXIBLE WORK HOURS

The subcommittee held hearings on bills to expand flexible work hours in the Federal Government (serial No. 95-28).

Flexitime basically replaces fixed working hours with two different types of time. "Core time" is the set hours where most workers must be present. "Flexible hours" are those that proceed and follow the core hours, from which employees can choose their own times of arrival and departure.

The General Accounting Office on September 26, 1977 (FDICD 77-62), estimated that 10,000 private sector organizations with 1.2 million employees are using compressed schedules and from 300,000 to 1 million private sector employees are on flexible work schedules.

The use of flexitime by the Federal Government began in 1974 with a small program involving 400 employees of the Social Security Administration aimed at reducing loss of work time due to high rates of tardiness. While flexitime has frequently been introduced to solve personnel problems, it has been highly successful with both employers and employees, since it gives workers greater control over their work schedules. Since 1974 flexitime in the Federal Government has spread to an estimated 141,000 employees, with generally positive results. However the flexible hours concept has had limited use in the Federal work force because experimentation is restricted by hours of work, overtime pay, and compensation statutes.

On November 2, 1977, the subcommittee reported amended H.R. 7814. The bill includes the following provisions:

- (1) Provides for a 3-year experiment with expanded use of flexible work hours, including the compressed work schedule or 4-day week;
- (2) Authorizes the Civil Service Commission to establish a master plan with guidelines and criteria by which to study and evaluate experiments in a sample of organizations and to report to Congress recommendations pertaining to such programs on a permanent basis following the experiment;
- (3) Requires agencies to establish a flexible hours or compressed work schedule experiment for employees, unless they find such an experiment disruptive to agency functions, whereby they can be exempted from participation by the Commission;
- (4) For the flexible hours programs, amends appropriate pay and hours of work laws to permit experimentation during the 3-year program;
  - (a) Defines "credit hours" as those elected by the employee that are in excess of the employee's basic work requirement and "overtime hours" as those in excess of 8 hours per day or 40 hours per week officially ordered in advance;
  - (b) Allows an employee who so requests to be granted compensatory time off in lieu of overtime pay and insures that when an employee is required to work overtime he shall be paid premium pay for that overtime work;
  - (c) permits an employee to accumulate not more than 10 credit hours in a biweekly pay period for carryover to a succeeding biweekly pay period;
  - (d) Gives agencies the authority to use recording clocks as part of its experiments;
  - (e) Gives agency heads authority to restrict arrival and departure times, use of credit hours, or an employee's or group of employees' use of flextime if the program is substantially disruptive to function or costly;
- (5) Provides that where employees are in a unit for which an employee organization holds exclusive recognition, the introduction of any flexible or compressed schedule experiment shall be subject to collective bargaining;
- (6) Prohibits an employee in a unit without an employee organization with exclusive recognition from being required to participate in any experiment unless a majority of employees in the unit have voted to be included and requires that an employee in such a unit shall be excepted or reassigned; and
- (7) Prohibits the coercion of employees in terms of time of arrival or departure, whether to work or not work credit hours, to request or not request compensatory time off, or right to vote to be included in a compressed schedule experiment.

#### PERMANENT PART-TIME EMPLOYMENT

The subcommittee heard testimony on H.R. 1627, the Part-Time Career Opportunity Act (serial No. 95-28). This bill required that 2 percent per year for 5 years of all jobs in grade levels GS 1-15 be restructured into permanent part-time positions. This legislation is

similar to S. 792, a bill that was passed by the Senate in the 94th Congress and not acted upon by the House.

The tremendous increase in part-time employment has been dramatic. Between 1965 and 1976, the numbers of part-time workers jumped by 43 percent. In 1967, the Bureau of Labor Statistics estimated that by 1980 one worker out of every seven would be part-time. This ratio was reached by the end of 1972. Furthermore, the BLS reports that 20 percent of the unemployed would prefer part-time work; that currently 12½ million workers work part time by preference, while only 3½ million work part time because they are unable to find full-time work.

Federal part-time hiring lags behind the hiring of part-timers in the private sector. Rigid adherence to the standard 40-hour week excludes individuals who are unable to work full time, including some parents, elderly, students, and handicapped. Furthermore, it deprives managers of the flexibility to hire for specific tasks highly trained persons who are unable to work on a full-time basis.

Agency personnel ceilings set by the Office of Management and Budget are an additional roadblock to increased part-time hiring in the Federal Government. The General Accounting Office report of January 2, 1976 (FPCD 75-156), concluded that the OMB ceilings should be relaxed so that managers who hire part-timers would not be penalized. Presently, each employee counts as a position against overall personnel ceilings whether they work 20 or 40 hours per week.

On November 2, 1977, the subcommittee reported a part-time bill, H.R. 10126. The bill includes the following provisions:

- (1) Provides that for purposes of the personnel ceilings part-time employees be counted by the number of hours worked;
- (2) Authorizes the Civil Service Commission (CSC) to provide technical assistance on part-time employment to the agencies and to conduct part-time demonstration projects.
- (3) Requires the agencies to establish part-time hiring programs with each agency setting its own goals and timetables; and
- (4) Includes strong reporting requirements requiring that the agencies report biannually to the CSC on their progress in meeting part-time hiring goals. The bill also requires the CSC to report annually to Congress impediments encountered in meeting goals and measures taken to overcome them.

#### BASIC WORKWEEK OF FEDERAL FIREFIGHTERS

There are approximately 12,500 Federal firefighters employed at the Department of Defense, Department of Transportation, Nuclear Regulatory Commission, and other agencies. While the Federal firefighter workweek is 72 hours, few municipal firefighters have workweeks of more than 56 hours, and many have an average workweek of less than 54 hours. This disparity in hours work is not compensated for by pay: Federal firefighter pay is about the same or less than their municipal counterparts. The pay and schedule inequities are causing the Federal firefighting program to attract less experienced people and to act as training schools for municipal fire departments.

Federal firefighters expected their workweek to be reduced to at least 60 hours with the enactment of the Fair Labor Standards Act in 1974. The act required Federal agencies to pay overtime for all hours worked in excess of 60 per week. Instead of reducing the firefighter's workweek, however, agencies have been regularly scheduling firefighters for 72 hours per week and paying FLSA overtime. The claim of the agencies is that overtime payments are cheaper than taking on additional employees.

The subcommittee held hearings September 26, 1977 (serial No. 95-44), on H.R. 3161, a bill to improve the basic workweek of Federal firefighters. The bill reduces the workweek from 72 to 54 hours and entitles the firefighter to retain premium pay equal to 25 percent of so much of his annual rate of basic pay as does not exceed the minimum rate of basic pay for GS-10. The subcommittee ordered H.R. 3161 reported to the full committee by unanimous voice vote on September 27, 1977. On October 26, 1977, the full committee marked up H.R. 3161 with an amendment reducing the workweek to 56 instead of 54 hours. This will result in even shifts of 24 hours on and 48 hours off duty. Also, the amendment tightened the language of the bill to insure that the Federal firefighter will not be regularly scheduled for a workweek in excess of 56 hours.

Completion of full committee action is expected early next year.

#### DEPARTMENT OF ENERGY ORGANIZATION

The administration has pledged itself to creating a more efficient Federal Government through effective reorganization of its often duplicative, sometimes counterproductive, functions. The first reorganization plan put forth by the President was a request to pull together the Government's numerous energy-related functions into a Department of Energy.

The subcommittee has jurisdiction over the effects of reorganization upon Government employees. It was deeply interested in monitoring, as the first of its kind, the reorganization creating the Department of Energy.

Although the President's energy reorganization request was originally referred to the House Committee on Government Operations, the primary committee for reorganization study, the subcommittee early began pursuing its concerns with the energy reorganization when it found that numerous provisions of H.R. 4263 went further than reorganization and invaded the subcommittee's jurisdiction over new personnel authorizations. On April 19, 1977, the subcommittee held a hearing (serial No. 95-6) on these matters and took testimony from representatives of the Energy Research and Development Administration and the Civil Service Commission regarding its concerns. While some matters were clarified at these hearings, seven points of concerns were substantiated. Subsequently, on April 25, 1977, these concerns and proposed amendments to correct them were relayed to Chairman Nix and by him to Chairman Brooks of the House Committee on Government Operations' Subcommittee on Legislation and National Security then marking up a bill, H.R. 4263, containing the President's request.

After examination of a clean bill reported by the Brooks subcommittee, H.R. 6804, the subcommittee found that while a couple points had been modified, new problems had been created. Again, review, a statement of concerns, and new amendments were drafted and passed along by Chairman Nix on May 3, 1977. Again, the Government Operations Committee made some corrections. However, the main points of difference—concerning the creation of new supergrade (GS-16 through 18) positions (many of which were excepted from the merit system) and the appointment of hearing examiners not from the Civil Service Commission pool—were not altered.

On May 13, Chairman Nix requested and obtained from the Speaker sequential referral of H.R. 6804 in order to amend these provisions of the bill. On May 24, 1977, the full committee met and ordered reported H.R. 6804 as so amended (H. Rept. 95-346, pt. II). On June 3, these amendments were adopted by the House by voice vote. The amendments adopted were as follows:

(1) Struck a provision which made the Inspector General and Deputy Inspector General subject to the Hatch Act;

(2) Provided for the appointment and employment of the Department's hearing examiners in accordance with the applicable provisions of title 5 of the United States Code and under Civil Service Commission control;

(3) Provided for the establishment of supergrade and scientific or professional positions within the framework of existing civil service laws.

(4) Deleted the special authority of the Secretary of Energy to utilize services and personnel of any Federal, State, local or foreign governmental agency or to provide services and personnel to such agencies except as provided under existing law.

(5) Retained authority to transfer personnel and functions from existing agencies to the Department of Energy but deleted the authority to transfer "personnel positions" to the Department; and

(6) Required the Civil Service Commission to report to the Congress on the overall effects on Federal employees resulting from the reorganizations under the act.

Subsequently, a similar Senate measure, S. 826, was amended to serve as the conference vehicle.

On June 21, Chairwoman Schroeder and Ranking Minority Member Gilman, and Vice Chairman Udall were appointed conferees on the Post Office and Civil Service Committee amendments. After a lengthy conference (June 29 through July 22) the conference report was filed (H. Rept. No. 95-539). All committee amendments were adopted by the conference with the exception that 200 excepted service supergrade positions were permanently assigned to the new Department. The conference report was adopted by the House on August 2 and the Senate on August 2, and signed into law on August 4 (Public Law 95-91).

The subcommittee intends to follow up upon the Department of Energy by careful review in the second session of the Civil Service Commission personnel impact report required by section 712 of Public Law 95-91.

## AUTHORIZATION FOR THE WHITE HOUSE STAFF

The law now authorizes the President to have 14 staff assistants at the White House (outside of certain specifically authorized bodies such as the Office of Management and Budget). The number of these assistants employed in authorized entities of the White House offices has numbered in the hundreds for many years and is roughly 500 at present. These assistants have been employed through the use of annual appropriation bills which have specifically exempted them from the accounting, pay, and job protections applicable to most other executive branch employees. Since providing White House assistants through legislation upon appropriation bills is contrary to the rules of the House and the Senate, the need has been recognized but unfulfilled, that arrangements for appropriate authorizing legislation for this White House staff be made.

The subcommittee held hearings (Serial No. 95-10) on H.R. 6326, a bill to provide authorization for the staff at the White House. This bill would authorize the President to employ 44 employees at not to exceed level II of the executive schedule, 21 supergrade (GS-16 through 18) employees, and 336 employees at grade GS-15 and below. The bill would also authorize \$75,000 for each of fiscal years 1978, 1979, and 1980 for temporary services of experts and consultants. It includes a 3-year general authorization for upkeep of the Executive Residence. It requires certain reporting of official expenses and permits the Comptroller General to audit such expenditures. It provides the Vice President with 5 positions not to exceed executive level II, 5 supergrades and 12 GS-15 and below positions. It provides \$500,000 for each of fiscal years 1978, 1979, and 1980 for the "unanticipated needs" fund provided the President for discretionary allocation to functions which the President determines would be detrimentally affected if the normal authorization and appropriation procedures were followed. (The President would report such allocations and findings to Congress.) H.R. 6326 would also require that executive branch employees detailed to the White House office on a full-time and continuing basis be reimbursed out of White House funds and increase the present \$40,000 annual President travel expense authorization to \$100,000 for each of fiscal years 1978, 1979, and 1980. Certain general reports to Congress would be required and the Domestic Council would have been abolished. Any employee affected by the bill's limitations would be authorized to hold his or her position for 2 years from the date of enactment of the legislation.

Testimony given at the April 26, 1977, hearing on H.R. 6325 by James McIntyre, Deputy Director of OMB, urged that the subcommittee report a bill "tracking" the general language of the appropriation bills of past years. The administration claimed that it could not ready an appropriate executive response to H.R. 6326 because the entities covered by the bill were soon to undergo reorganization.

The deadline for reporting bills carrying budget authorizations was drawing near. With the realizations that the administration's request would be little more than an abandonment of Congress right under the Constitution, article II, section 2, clause II, to provide for inferior officers as it sees fit, and the further belief that H.R. 6326 provisions varied little from the actual staff configuration at the White House and would offer the President ample room for action on any reorgani-

zation plan, the subcommittee ordered H.R. 6326 reported after adopting a single amendment permitting the Domestic Council to exist for fiscal year 1978.

Unfortunately, lack of quorum at the full committee prevented consideration of H.R. 6326 on May 16, 1977, the final reporting deadline under the Budget Act. Subsequently, Congress did not veto Reorganization Act No. 1, which reorganized the White House offices, and with the reorganization plan firm, the subcommittee on September 30, 1977, again held a hearing on H.R. 6326, receiving testimony from T. R. Davis, Reorganization Counsel at the White House. At this time, Mr. Davis promised an executive response within 2 weeks. Although this 2 weeks has expired, although various meetings and consultations have been held with the White House, and although the reorganization is now in effect, the White House has yet to submit its official request for authorization legislation. However, as the provision of H.R. 6326 will not require substantial alteration even to take into consideration the reorganization, further action on this bill will occur early next year.

#### INTERGOVERNMENTAL PERSONNEL PROGRAMS

The Intergovernmental Personnel Act (IPA) was enacted 6 years ago (Public Law 91-648) as the first comprehensive Federal program designed to improve the personnel resources of State and local governments through coordinated effort with the Federal Government. It is administered by the Bureau of Intergovernmental Personnel Programs of the Civil Service Commission.

The major provisions of the IPA are as follows:

- (1) Financial grants to States and localities to strengthen personnel and management and training;
- (2) Interchange of Federal, State, and local employees;
- (3) Grants to State and local governments and other appropriate organizations and carrying out approved plans for training State and local government employees;
- (4) Cooperative recruitment and examining activities with State and local governments;
- (5) Transfer of responsibility to the Commission for the administration of merit system standards for State and local employees involved in certain federally funded programs; and
- (6) Advice and assistance at the request of States and localities to strengthen personnel administration.

In the 94th Congress hearings were held on amendments to the IPA and H.R. 4415 was passed by the House. No action was taken by the Senate. In his budget request for fiscal year 1978 President Ford deleted funding for the IPA program. However, IPA funding was restored at the current level in President Carter's budget request for fiscal year 1978. The subcommittee in its report to the Budget Committee requested that IPA funding be continued at the current level of \$20 million.

The subcommittee staff met with Norm Bechman, Director of the Bureau of Intergovernmental Personnel Programs, and Allen Heuerman, Assistant Director for Grants, to discuss possible amendments to the IPA. The administration is currently reviewing the IPA program. The subcommittee will hold hearings on the administration proposals.

## ADMINISTRATIVE LAW JUDGES

H.R. 5723 would convert by statute temporary Administrative Law Judges (ALJ's) (GS-14) at the Social Security Administration (SSA) to permanent GS-15 ALJ's. This bill was jointly referred to the Committee on Ways and Means.

The subcommittee held hearings on May 3 and 5 (serial No. 95-9). Testimony was received from the Civil Service Commission (CSC); Department of Health, Education, and Welfare; Members of Congress; and other special interest groups. During a May 5 markup session, the staff was directed to meet with officials from the CSC and SSA to come up with an administrative proposal in lieu of the bill.

After a series of discussions with the two agencies, the following proposal was agreed upon. Those temporary ALJ's who chose to apply for the CSC examination for consideration of ALJ positions on or before September 15, 1977, will have their applications processed by December 31, 1977 (as promised by the CSC).

However, on September 27, 1977, the subcommittee ordered H.R. 5723 reported with an amendment. The amendment would convert temporary GS-14 ALJ's to permanent GS-14 ALJ's and as they meet the minimum qualifications for appointments under CSC standards and regulations, they would be deemed appointed to permanent GS-15 ALJ's. The vote in the subcommittee was 3 yeas and 2 nays.

On October 12, the full committee by a 12 yea to 5 nay vote ordered H.R. 5723 reported as amended (Rept. No. 95-617, part II). To date, no action has been scheduled for floor consideration. However, the Senate recently added the original language of H.R. 5723 to the House passed bill, H.R. 9346, the Social Security Financing Amendments of 1977.

## SUBCOMMITTEE ON CIVIL SERVICE

### SUBCOMMITTEE JURISDICTION

The subcommittee has jurisdiction over: the Civil Service Commission, generally, including operations, administration, and management; Federal labor-management relations—excluding the Postal Service—employee political activities; and Federal civil service matters, generally, except those matters specifically within the jurisdiction of other subcommittees.

During the first session of the 95th Congress, the subcommittee conducted reviews of eight (8) matters. Five (5) bills (H.R. 10, H.R. 8342, H.R. 5054, H.R. 3793, and H.R. 6225) were approved by the committee and have been reported to the House. Three (3) of these bills (H.R. 10, H.R. 8342, and H.R. 5054) were passed by the House and are currently pending before the Senate.

Subjects reviewed were:

- (1) Hatch Act reform;
- (2) Federal labor-management relations;
- (3) City tax withholding for Federal employees;
- (4) Apportionment in the Federal civil service;
- (5) Title and salary changes for administrative law judges; and
- (6) Right to representation for Federal employees under investigation for alleged misconduct.
- (7) Pretermination hearing rights for Federal employees.
- (8) Veterans' preference, and its impact upon women and minorities, in the Federal civil service.

#### *H.R. 10, Hatch Act Reform—The Federal Employees' Political Activities Act of 1977*

The subcommittee has jurisdiction over the Hatch Act, 5 U.S.C. 7321-7327, which limits political campaign contributions, and prohibits coercion, promises of employment or threats of deprivation of employment with respect to political activity, and active participation in political management or campaigns by Federal civilian employees. The statute regarding State and local government employees who work on federally financed programs was amended in 1974 to remove all prohibitions upon political activity except that such employees may not be candidates for elective office.

H.R. 10, the Federal Employees' Political Activities Act of 1977, was introduced by subcommittee Chairman William Clay on January 4, 1977. Subsequently, six identical bills were introduced with a total cosponsorship of 73 Members of the House.

H.R. 10, as introduced, was identical to H.R. 8617 which passed both Houses of Congress last year but was vetoed by President Ford. The House narrowly failed to override Ford's veto.

The primary purposes of H.R. 10 are—

(1) To modify the "Hatch Act" to permit Federal civilian and postal employees to participate voluntarily and as private citizens in the political processes of the Nation;

(2) To protect both the public and employees from improper influences and solicitations, and from coercion or the misuse of official authority;

(3) To prohibit certain political activities by Federal civilian and postal employees with respect to political contributions; and

(4) To establish a strong enforcement mechanism to insure compliance with those laws relating to political activity by Federal civilian and postal employees.

The subcommittee conducted public hearings in Washington, D.C., on February 23 and 24, 1977.

Testimony was received from 18 individuals and organizations, including a Member of Congress, public employee organizations, public interest groups, and nonpartisan civic and professional organizations. The hearing record was further supplemented by statements from numerous other individuals and organizations.

On April 20, 1977, the Subcommittee on Civil Service approved H.R. 10 by rollcall vote of 6 to 4 after striking out all after the enacting clause and inserting a new text. On April 27, the Committee on Post Office and Civil Service, by rollcall vote of 18 to 7, ordered H.R. 10 favorably reported to the House with one amendment striking out all after the enacting clause and substituting a new text.

After extensive deliberations, the House of Representatives passed H.R. 10 by the substantial margin of 244 to 164. The bill was subsequently referred to the Senate for action.

H.R. 10, as passed by the House:

(1) States that Federal employees are encouraged to exercise their right of voluntary political participation;

(2) Retains under the prohibitions of existing law employees in foreign intelligence positions; law enforcement, auditing, and contracting positions which have been designed "restricted" by the Civil Service Commission;

(3) Prohibits the use of official authority, influence, or coercion with respect to the right to vote, not to vote, or to otherwise engage in political activity;

(4) Prohibits solicitation of political contributions by superior officials and making or soliciting political contributions in Government rooms or buildings.

(5) Prohibits, with certain limited exceptions, political activity while on official duty, in Federal buildings, or in uniform;

(6) Prohibits the extortion of money for political purposes from employees;

(7) Requires that employees who seek elective office do so on their own time, and that employees shall, upon request, be granted accrued annual leave or leave without pay to seek elective office;

(8) Permits State and local employees to seek elective office if they hold federally funded positions;

(9) Designates the General Counsel of the Civil Service Commission as the enforcing authority and the Commissioners as the adjudicatory authority; provides for judicial review of adverse

decisions; and, limits investigations or prohibited activities to 90 days;

(10) Subjects violators of law to removal, suspension, or lesser penalties at the discretion of the Commissioners; requires a minimum of 30 days suspension without pay for any employee found guilty of violating the prohibition against use of official authority or influence for political purposes;

(11) Provides for a two-House congressional veto of regulations of the Civil Service Commission; and

(12) Requires the Civil Service Commission to conduct a program for informing employees of their rights of political participation, to establish an office to counsel and advise employees, and to report annually to the Congress on its implementation of this act.

*H.R. 13, H.R. 1589, H.R. 9094—Federal labor-management relations*

In January 1977, two similar bills were introduced—H.R. 13 by subcommittee Chairman William L. Clay, and H.R. 1589, by Congressman William D. Ford—to provide for improved Federal labor-management relations.

The subcommittee held 5 days of public hearings throughout the year receiving testimony from 18 witnesses, as well as several statements submitted for the record, on H.R. 13 and H.R. 1589. The subcommittee learned that there is a need for comprehensive legislation to establish a well-balanced Federal labor-management relations program.

Criticisms of the present program are that its foundation is tenuous at best since it can be terminated at any given time by the President because the program is based on Executive orders. Many believe that the present program is management-biased and has developed so rapidly that it is not as efficient as it should be.

The legislation considered by the subcommittee provides for a program which would increase the efficiency of the Government by providing the means for employees to participate in the conduct and conditions of their work.

A new bill, H.R. 9094, was introduced on September 14, 1977 by Chairman Clay and Congressman William D. Ford combining features of H.R. 13 and H.R. 1589 which was subsequently considered during subcommittee hearings.

The subcommittee concluded its hearings on the new bill on September 15 and plans to mark up the bill early in the next session.

The major provisions of H.R. 9094 are:

(1) Finds that it is in the public interest to establish by law the right of Federal employees to bargain collectively over the terms and conditions of their employment and provides Federal employees with the right to join or not to join a labor organization, to participate in its management, and to bargain collectively over the terms and conditions of their employment;

(2) Establishes a Presidentially-appointed three-member Federal Labor Relations Authority with responsibility for administering the provisions of the law;

(3) Provides that labor organizations may secure exclusive representation by election; for agency shop; and for dues check-off

by (1) exclusive representative, (2) an organization holding a 10 percent membership base if no other group holds exclusivity, and (3) an alternate labor organization, should the employee choose to do so.

(4) Provides for the negotiation of grievance procedures (except employment discrimination and political rights), with binding arbitration and judicial review—an employee who pursues grievances and appeals by the statutory appeals mechanisms may select his/her own representative;

(5) Provides for the resolution of impasses through third-party intervention—Federal Services Impasses Panel—and binding arbitration; authorizes the assistance of the Federal Mediation and Conciliation Service;

(6) Establishes a seven-member Employee Pay and Benefits Council which negotiates pay and other major money-related fringe benefits with the President's agent (Chairman of the Civil Service Commission, Director of Office of Management and Budget, and Secretary of Labor) and provides for presidential alternatives and Congressional disapproval of recommendations;

(7) Provides official time for contract negotiations, negotiation of ground rules, and processing of grievances;

(8) Provides an employee against whom an adverse action is proposed with 30 days' written notice, relevant materials and pre-termination, and hearing;

(9) Provides for the prevention and resolution of unfair labor practices and standards of conduct for labor and management;

#### *H.R. 8342—City tax withholding*

On April 21, 1977, Subcommittee Chairman Clay introduced H.R. 6526—which subsequently became H.R. 8342—which provides for the application of mandatory withholding of local taxes. An identical bill—H.R. 13297—sponsored by Mr. Clay passed the House unanimously last year, but was not acted upon by the Senate.

In 1974, legislation introduced by Congressman Clay, Public Law 93-340, provided for the mandatory withholding of local income taxes from Federal employees. However, Public Law 93-340 did not provide for the mandatory withholding of local taxes from Federal employees who live within a locality but are employed elsewhere within that State. As a result of this, localities are unable to insure that their taxes are withheld from such Federal employees. In addition, such employees must meet tax obligations in a lump sum, causing these employees financial hardship. H.R. 6526 extended mandatory withholding of local taxes from such Federal employees.

On June 16, 1977, the subcommittee held a public hearing on H.R. 6526. Testimony in support of the legislation was received from revenue officials of Philadelphia, Pa., St. Louis, Mo., and Kansas City, Mo., and from a representative of the Department of the Treasury. Written testimony in support of the legislation was received from the comptroller of the city of New York, the National Association of Counties, and Nassau County, N.Y. There was no opposition to the legislation.

On July 14, 1977, the subcommittee, by unanimous voice vote, approved the provisions of H.R. 6526, with technical amendments, and ordered that a clean bill be introduced. Subsequently, a clean bill was

introduced as H.R. 8342. On July 27, 1977, H.R. 8342 was ordered reported by unanimous voice vote of the full committee and on September 19, 1977, was passed by the House.

*H.R. 5054—Apportionment in Federal employment*

Based upon the request of the administration, H.R. 5054 was introduced by Congressman Herbert E. Harris, a member of the subcommittee, along with four cosponsors. This bill repeals the requirement that appointments to the competitive service in the executive branch within the Metropolitan Washington, D.C. area be apportioned on the basis of population among the States, territories, and the District of Columbia.

The apportionment requirement was established by statute in 1883 for the purpose of assuring that all States and territories would have representation at the headquarters of the National Government.

However, a recent GAO study concluded that the effect of apportionment has been minimal. Only 15 percent, about 50,000, of 326,000 positions have been affected. For the past 25 years, 41 States have been in arrears, 15 percent in excess of their quota. While the apportionment requirement has been reportedly ineffective, GAO claims that the nationwide competitive service facilitates examining candidates from across the country and that decentralized decisionmaking insures that different geographic views are represented at the national level.

Both GAO and the Civil Service Commission maintain that the act has outlived its usefulness, is ineffective, too cumbersome to administer, and has no place in the merit system.

A hearing on H.R. 5054 was held by the subcommittee on May 26, 1977, and testimony received from several Members of Congress, GAO, Civil Service Commission, and the International Personnel Management Association supported repeal of this outdated requirement.

The subcommittee unanimously reported H.R. 5054 to the full committee for consideration on July 14, 1977. On July 27, 1977, the full committee unanimously voted the bill for House consideration, and it passed the House on September 19, 1977.

*H.R. 865—Title and salary changes for administrative law judges*

A bill, H.R. 865, introduced by Congressman John J. Duncan, proposed to change the title of hearing examiners to administrative law judges and make their salaries 90 percent of the salaries of Federal district court judges.

The subcommittee conducted a day of public hearings on this bill on June 21, 1977, receiving testimony from the sponsors of the bill, the Civil Service Commission, HEW, the Federal Administrative Law Judges Conference, and the National Conference of Boards of Contract Appeals members.

At a subcommittee markup on July 14, 1977, the members decided that, while there was no objection to a title change, the position of hearing examiner does not merit a salary equal to 90 percent of that of a Federal district court judge. Therefore, the bill was tabled by the subcommittee. Subsequently, the portion of H.R. 865 dealing with the title change was made a part of another piece of legislation regarding administrative law judges—H.R. 6975.

*H.R. 3793—Right to representation for Federal employees under investigation for alleged misconduct*

H.R. 3793, introduced by Congresswoman Gladys Spellman on February 22, 1977, provides Federal employees, who are under investigation for misconduct which could lead to suspension, removal, reduction in rank or pay, the right to be advised in writing of the investigation and the right to representation during the informal or preliminary stages of investigation. Under existing law, an employee is entitled to representation in connection with disciplinary proceedings only after formal charges have been lodged. It is believed that information secured during the informal stages of an investigation makes it difficult for the employee to subsequently vindicate himself and that the value of representation at formal hearings is diminished considerably.

This right is already available to employees of the private sector under the National Labor Relations Act as interpreted by the Supreme Court, *NLRB v. Weingarten*, Doc. No. 73-1363, February 16, 1975.

Virtually identical legislation was considered and passed by the House during the 94th Congress, but no Senate action was taken.

The Subcommittee on Civil Service conducted public hearings on this proposal on July 21, 1977. Congresswoman Spellman and several employee organizations testified and submitted statements in support of the bill; the administration opposed enactment of the bill.

*H.R. 6225—Pretermination hearing rights for Federal employees*

H.R. 6225, introduced by Congresswoman Patricia Schroeder with cosponsors, aims to guarantee to each employee in the executive branch, who has completed the probationary or trial period, the right to a hearing, the hearing transcript, and all relevant evidence prior to a final decision of an agency to take certain adverse actions against such an employee.

Public hearings were held on this bill on July 28, 1977. The subcommittee received testimony from Congresswoman Schroeder, the Civil Service Commission, several employee organizations, and public interest groups.

The subcommittee learned that the present appeals system works against the Federal employee because it is time-consuming, costly, complex, and denies the employee a hearing until after an adverse action has taken place. Therefore, the employee is left in a state of limbo—without income and health and life insurance benefits—until a final decision is made.

H.R. 6225 seeks to rectify this situation by providing for a fair hearing before, not after, the Government takes away an employee's livelihood.

In addition, the hearings revealed that prior to a 1974 Executive order, Federal employees in nine Government agencies were entitled to the right to a pretermination hearing. In fact, one of those agencies was the Civil Service Commission.

Currently, in the private sector, the right to a pretermination hearing is negotiable through collective bargaining agreements.

Opposition to this bill was expressed by the Civil Service Commission and the American Legion.

H.R. 6225 includes the following provisions:

(1) Each employee in the executive branch, who has completed the probationary or trial period, is entitled to the right to a hearing, the hearing transcript, and all relevant evidence prior to a final decision of an agency to take certain adverse action against such an employee;

(2) An employee may be removed, suspended without pay, or reduced in rank or pay, only for such cause as will promote the efficiency of the service;

(3) Prior to an adverse action the employee is entitled to at least 30 days' advance written notice, except when there is reasonable cause to believe the individual is guilty of a crime for which the penalty is imprisonment;

(4) Hearing examiners are provided with subpoena authority and court enforcement of subpoenas and judicial review of adverse decisions is available to the employee; and

(5) The hearing procedure is subject to negotiated agreements arrived at through collective bargaining agreements.

#### *Veterans' preference system*

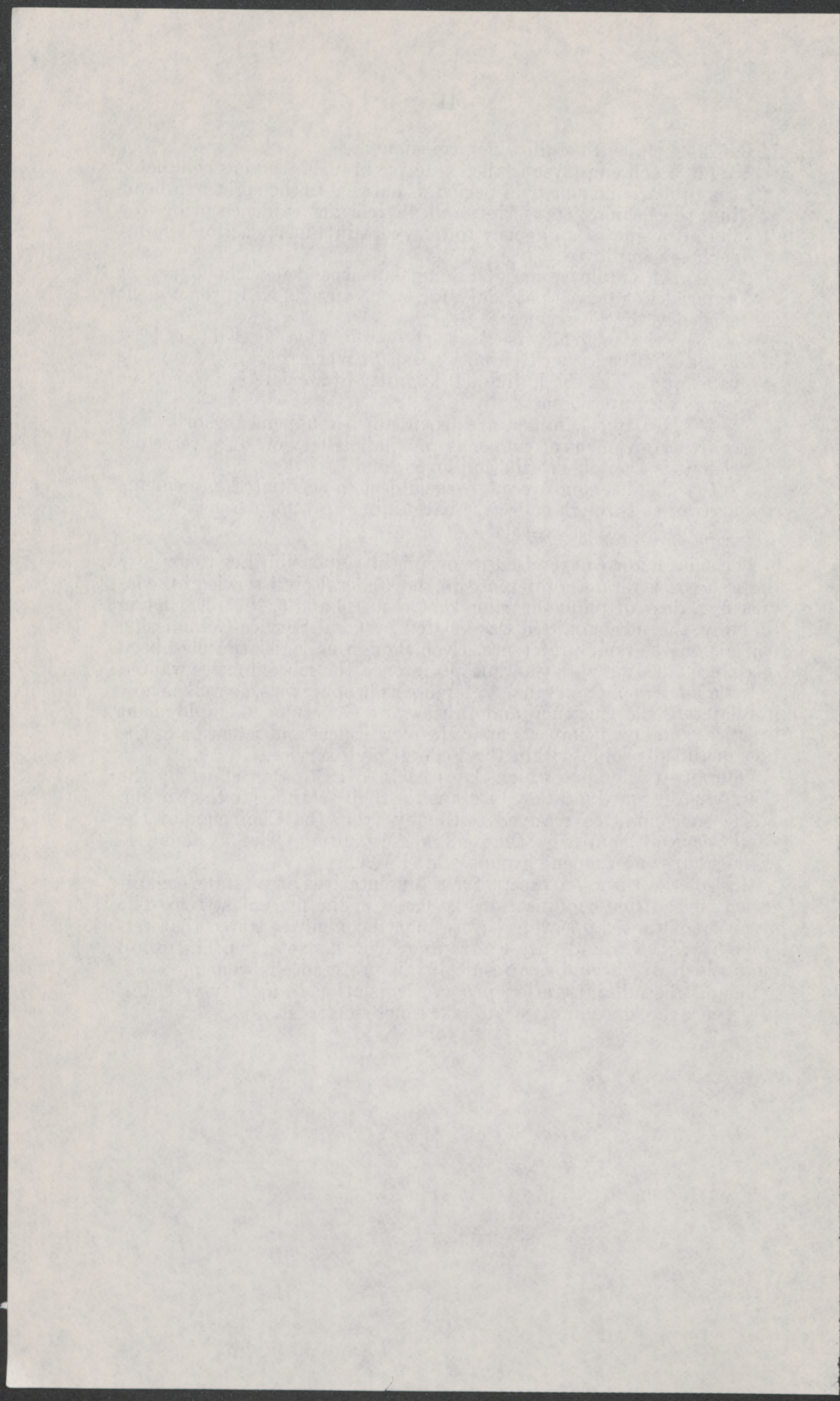
The subcommittee exercised its oversight responsibilities to explore the issue of veterans' preference in the Federal civil service by conducting 2 days of public hearings on October 4 and 5, 1977. Earlier in the year, the subcommittee was briefed by Civil Service Commission officials on veterans' preference. Even though no legislation had been introduced dealing with veterans' preference, the subcommittee wanted to learn more about veterans' preference as it now exists, as well as how it relates to the efficiency and fairness of Government employment practices and how it impacts upon the recruitment and retention of the best qualified people within the Federal civil service.

Veterans' preference which dates back to 1865 is an effort by the Congress to reward military veterans for their sacrifices to the Nation.

The subcommittee received testimony from the Chairman of the Civil Service Commission, the General Accounting Office, various veterans groups and women's groups, and IPMA.

Most of the witnesses except for representatives of veterans organizations urged that modifications be made in the present system. The majority of those appearing before the subcommittee stated that veterans have a clear and unfair advantage over nonveterans. The group most adversely effected as a result of this preference is women.

Should the administration propose legislation to modify veterans' preference the subcommittee will take a close look at it.



## SUBCOMMITTEE ON POSTAL OPERATIONS AND SERVICES

During the first session of the 95th Congress, the subcommittee reviewed 26 matters. The subcommittee favorably reported to the full committee two bills which were subsequently ordered reported. The bills are now awaiting action by the House of Representatives.

Among the matters considered by the subcommittee, the following are the most significant:

- (1) The Postal Service Act of 1977 (H.R. 7700);
- (2) H.R. 9146, procedures for congressional disapproval of changes in Postal Service;
- (3) The report of the Commission on Postal Service;
- (4) Postal Service budget hearings;
- (5) Mail classification (involving scientific journals);
- (6) Electronic mail;
- (7) Post office closings and consolidation; and
- (8) Worker's compensation budget impact.

### THE POSTAL SERVICE ACT OF 1977

(H.R. 7700)

The principal activity of the subcommittee has involved the issues in H.R. 7700, the Postal Service Act of 1977. The bill was introduced on June 9, 1977. Representative James M. Hanley, chairman of the Postal Operations and Services Subcommittee and Representative Charles H. Wilson, chairman of the Postal Personnel and Modernization Subcommittee, cosponsored H.R. 7700.

The bill was developed as a result of extensive study and hearings by the two subcommittees during the past few years. It was designed principally to achieve several goals:

- (1) increase the accountability of the Postal Service to the public by making the Postmaster General a Presidential appointee and by abolishing the Postal Service's Board of Governors;
- (2) strengthen the oversight functions of Congress by providing for congressional veto power over postal rate increases, periodic authorization of appropriations to the Postal Service and congressional review of major capital projects;
- (3) reiterate and strengthen the postal ratemaking policy set in the Postal Reorganization Act of 1970 requiring that postal rates to be related to costs, but also emphasizing the importance of noncost factors; and
- (4) eliminate the so-called break-even concept and recognize that general tax revenues should be used to offset postal costs in recognition of the public services performed by the Postal Service.

H.R. 7700 was jointly referred to the Subcommittee on Postal Operations and Services and the Subcommittee on Postal Personnel and Modernization.

The Subcommittee on Postal Personnel and Modernization concluded hearings on H.R. 19, the major provisions of which were included in H.R. 7700, and the Subcommittee on Postal Operations and Services held hearings on July 19, 21, and 22.

It was anticipated that an administration witness would appear during these hearings. However, the administration was not prepared at that time. Further hearings were scheduled for September 8. Again, witnesses for the Office of Management and Budget were not prepared. Therefore, the final hearing on H.R. 7700 was not held until September 20, when representatives of the Office of Management and Budget, the Postal Service, and the Postal Rate Commission testified.

To expedite action on H.R. 7700, it was decided that the two subcommittees would conduct joint markup sessions. These meetings were held on September 23 and 27, and October 4. H.R. 7700 was approved by a unanimous voice vote of both subcommittees at the October 4 meeting.

Subsequently, full committee markup sessions were held on October 12 and 18, and the bill was ordered reported on October 18 by a record vote of 19 ayes and 4 nays. The committee's report on H.R. 7700 was submitted to the House on November 3, 1977 (House Report No. 95-808).

#### SYNOPSIS OF THE POSTAL SERVICE ACT OF 1977

##### SECTION 1. Title.

SECTION 2. Postal Rate Commission decisions in rate, fee and classification cases are subject to congressional veto. Congress will have 60 days to veto such decisions. Both Houses must concur. Only the decision as a whole is subject to veto; there is no item veto. Appropriations are authorized to cover any shortfall created by a veto. Except for these provisions, Postal Rate Commission decisions will be final.

SECTION 3.<sup>1</sup> A more precise methodology for the setting of postal rates is established to reaffirm congressional intent in the Postal Reorganization Act of 1970. Rates are to be based on short-term variable costs with a 60 percent ceiling on attributable costs, except for zone-rated parcels. Institutional costs will be allocated according to other criteria outlined in the law. In addition, the Postal Service may not include more than 2 percent for contingencies or provisions for recovery for prior year losses in costs to be covered by postal rates. The rate for editorial content of second class mail matter must be uniform nationwide. The first 250,000 copies a magazine or newspaper, including controlled circulation publications, if not eligible for any other discount are to be charged a rate which would cover no more than attributable costs.

SECTION. 4.<sup>1</sup> Authorization for public service appropriations is increased from the current 10 percent of 1971 postal appropriations (\$920) to 15 percent of the prior fiscal year's operating expenses. The provision in the Postal Reorganization Act reducing the amount of public service authorizations beginning in 1979 is eliminated.

<sup>1</sup> Indicates jurisdiction of the Postal Operations and Services Subcommittee.

The authorization is for only a 2-year period, rather than the permanent authorization included in current law.

It is also specified that the money is authorized for, among other things, 6-day a week delivery, the operation of rural post offices, and a modern research and development program, which by 1980 is to be allocated 2 percent of the Postal Service's annual revenue. Also, the Postal Service is to report to Congress 1 year after the act becomes effective on the feasibility of postal involvement in the various electronic communications concepts.

Zone-rated parcels cannot receive a reduction in rates of more than 7 percent as a result of public service appropriations. Also, the section requires that parcel post rates be sufficient to recover the attributable costs of the class plus a fair share of all other postal costs. Committee intent in making modifications with respect to parcel post is to maintain as close as possible the present balance in parcel post ratemaking, thereby preventing any new advantage being given to either parcel post or private sector competitors.

SECTION 5.<sup>1</sup> The Postal Rate Commission's budget is separated from the Postal Service's and the Postal Service will no longer have any control over the Postal Rate Commission's finances. The new provision places the Commission under the ordinary budgetary and appropriations procedure, and, as with Postal Service appropriations, the President is prohibited from changing the Commission's request, though the President may make a separate recommendation.

SECTION 6. A maximum size limitation of 100 inches in girth and length combined and a maximum weight limitation of 70 pounds are uniformly applied to parcels mailed from all post offices. Currently, size and weight limitations vary according to the class of post office.

SECTION 7.<sup>1</sup> Both the Postal Service and the Postal Rate Commission may represent themselves without the prior consent of the Attorney General in court cases arising out of Postal Rate Commission proceedings on rate, classification, and service matters.

SECTION 8. The Postal Service Board of Governors is abolished and the Postmaster General is to be appointed by the President with Senate confirmation. The pay of top postal executives is tied to the five levels of the executive schedule.

SECTION 9.<sup>1</sup> The Postal Service must hold a public hearing in any community where it is considering closing a post office. Added to current law is a provision requiring the Postal Service to consider the social effect of a post office closing on a community.

SECTION 10. The Postal Service is required to follow procedures for disposing of excess property followed by other Federal agencies. This provision applies only to properties turned over to the Postal Service as a result of the passage of the Postal Reorganization Act of 1970.

SECTION 11. The Postal Service may not begin any capital program exceeding a total cost of \$9 million until receiving a recommendation from Congress. The recommendation will be based on hearings and studies conducted by Congress on the proposals submitted by the Postal Service. The recommendation on a specific project must be transmitted to the Postal Service within 4 months after submission of the proposal to Congress.

<sup>1</sup> Indicates jurisdiction of the Postal Operations and Services Subcommittee.

SECTION 12. The Postal Service must give preference to American flag vessels, award contracts for services competitively, and cannot use size, weight and shape of containers to discriminate against a shipper.

SECTION 13.<sup>1</sup> Teaching aids, catalogs of books and eligible educational materials mailed from libraries will be charged the library rate.

SECTION 15.<sup>1</sup> The Postal Rate Commission shall establish a method of informing the public of the costs of the various classes of mail and that portion of the costs which are paid by appropriated funds.

SECTION 16. The pay for Postal Service employees may not exceed the rate of pay for GS-18, except for 25 specific executive positions.

SECTION 17. Career employees who are residents of the delivery area of a post office must be given preference in appointment to postmaster vacancies. Also, equally qualified nonpostal applicants who are residents of the area must be given preference in postmaster appointments over nonresidents.

SECTION 18. No provisions in this act are intended to have an effect on the collective bargaining process outlined in the Postal Reorganization Act of 1970.

#### H.R. 9146—PROCEDURES FOR CONGRESSIONAL DISAPPROVAL OF CHANGES IN POSTAL SERVICES

H.R. 9146 was introduced by Committee Chairman Robert N. C. Nix on September 15, 1977, and was cosponsored by 23 members of the committee. It gives Congress 60 days to review proposed nationwide changes in postal services. Either House could veto the proposed change during the 60-day period following submission by the Postal Service.

Under existing law, 39 U.S.C. 3661, whenever the Postal Service proposes to make a change in the nature of postal services which will generally affect services on a nationwide or substantially nationwide basis, the Postal Service must request an advisory opinion on the proposed change from the Postal Rate Commission which is authorized to conduct hearings to consider the views of mail users and the general public. Thereafter, the Commission issues its advisory opinion. Despite this elaborate procedure, the Postal Service is not bound by the Commission's opinion. The Postal Service may proceed to make the change regardless of the Commission's views. In fact, the law does not even require the Postal Service to wait until the Commission's opinion is given before making the change.

Earlier this year, after the Commission on Postal Service—note that this is not the Postal Rate Commission—issued its report in which it recommended that the Postal Service reduce mail delivery from 6 to 5 days a week, the Postal Service took immediate steps to plan such a change. On April 19, the day after the Commission issued its report, one of the Postmaster General's aides contacted officials of several postal labor unions, inviting them to begin discussions on how 5-day delivery could be implemented. The reaction from the Congress and the public to the precipitous action was immediate. Thousands of American citizens wrote their Representatives and Senators calling for retention of Saturday mail delivery.

<sup>1</sup> Indicates jurisdiction of the Postal Operations and Services Subcommittee.

On April 21, the chairman and 21 members of the Committee on Post Office and Civil Service wrote the Postmaster General advising him of the committee's strong objection to any unilateral effort to change 6-day delivery until Congress had adequate time to study the issue. Subsequently, Congress approved legislation prohibiting the expenditure of funds appropriated for fiscal year 1978 to bring about a change to 5-day delivery. Finally, on September 24, the House of Representatives, by a vote of 377 to 9, approved House Concurrent Resolution 277, calling for the continuation of all service at current levels.

Nevertheless, the Postal Service has statutory authority to eliminate Saturday delivery or make any other change in service it wishes to make under the procedure described above. The limitation on the use of appropriated funds is not binding because appropriations for fiscal year 1978 to the Postal Service account for only \$1.8 billion out of a total budget of more than \$16 billion. Postal revenues, which are permanently appropriated to the Postal Service under the provisions of the Postal Reorganization Act, are not subject to such a limitation on expenditures. Concurrent resolutions do not have the force and effect of law. The Congress is left in the position that the only effective way to direct and insure Postal Service compliance with congressional policy is to enact legislation.

H.R. 9146 would substitute Congress for the Postal Rate Commission, and give Congress an effective voice in many major postal policy decisions.

It is important to note that the provisions of H.R. 9146 were included in H.R. 7700 during the subcommittee markup of the latter bill.

No hearings were held specifically on H.R. 9146. The subcommittee approved the bill by unanimous voice vote on October 4, 1977. The bill was ordered reported unanimously to the full committee on October 18, 1977, and the report was filed on November 2, 1977—House Report 95-796.

#### COMMISSION ON POSTAL SERVICE

Public Law 94-421 established a Commission on Postal Service which was charged with conducting a broad range of studies and making recommendations on future postal policy. The specific mandate to the Commission is included in section 7 of that law.

The Commission consisted of seven members, three appointed by the President, and two each appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives.

The Commission was to issue its report by March 15, 1977, before which a moratorium on service reductions, post office closings, the installation of cluster boxes, and postal rate increases was in effect. The Commission, however, found that it could not meet its deadline and the report was not issued until April 18, 1977.

On that date, the Commission issued a report consisting of five volumes. The first volume included findings and recommendations, the second consisted of reports on various studies contracted for by the Commission and the third volume was three books containing the verbatim transcripts of numerous public hearings held around the country.

The principal conclusions and recommendations of the Commission were as follows:

*Major conclusions*

The Commission on Postal Service, subject to individual views printed after this report, submits the following major conclusions based on its investigations, the reports of its contractors, the record of extensive public hearings, written comments, and a national survey of the American public:

(1) The Postal Service is providing comprehensive and generally acceptable levels of services at reasonable rates. However, the Commission recognizes a need for the Postal Service to make improvements.

(2) The Postal Service holds a small share of the total communications market which is now dominated by the telephone industry. First-class mail, the largest and most lucrative part of all mail, faces major competition from developing electronic communications systems—electronic funds transfer and facsimile and data terminals with transmission capabilities—all based on existing technology. Mail volume has begun to stagnate and any substantial future growth in communications is likely to be in the field of electronic communications. Mail volume will probably decline as other systems are introduced and achieve economic feasibility, and as consumer acceptance rises. The growth in electronic communications is not primarily motivated by a desire to avoid postage costs. It is the result of a shift from communications based on paper to more economical electronic systems.

(3) Given a "business-as-usual" posture, the Postal Service will not be able to meet cost increases through moderate rate increases and growth in volume. Without effective cost constraints and increased appropriations, postage rates will rise to levels which will cause additional volume losses. There are, however, changes which can be made to contain costs, maintain volume, and restrain rate increases. These measures, while stringent, are feasible and essential to the viability of the Postal Service.

(4) The public will support reductions of certain postal services if these changes help contain rate increases and minimize the need for either increased rates or larger congressional appropriations. The public's opinion is uniform without regard to age, sex, income, family size, or type of mail delivery service received. However, Americans living in rural areas strongly oppose the closing of small post offices which play an important role in community life.

(5) Although a majority of the public is generally opposed to higher levels of public funding, a majority does prefer increased appropriations rather than increased postal rates to preserve essential postal services.

(6) The present level of public service appropriations is inadequate to meet the financial needs of the Postal Service.

(7) Indexing postal rate levels by changes in the consumer price index would not accurately reflect increases in postal costs and would probably lead to higher appropriations to pay the costs of the Postal Service.

(8) The use of fully allocated concepts in setting postal rates and fees is insensitive to the needs of the Postal Service. The interest of the public will be served if rates are set which recognize factors other than cost.

(9) The public interest continues to be served by having a Board of Governors and a Postal Rate Commission. The structure and function of both should be modified.

#### *Major recommendations*

Based on these major conclusions, the Commission on Postal Service makes the following major recommendations to the President and Congress. Other recommendations appear in the body of the report.

#### *Levels of postal services*

(1) Post offices should not be closed merely to reduce costs except in those instances in which a vacancy in the management of the office occurs, conditions change, or postal patrons vote to close the post office.

(2) Mail delivery to all addresses should be reduced from 6 days to 5 days a week, but window service should be available on the day mail is not delivered. In our Nielsen survey, 80 percent of those citizens surveyed favored this as a means of controlling costs.

(3) The Postal Service must have flexibility to meet changing circumstances and changing needs of the public. Postal Services that become obsolete, especially as the result of diversion of mail to electronic communications, should not be continued.

(4) The Postal Service should make dependability of timely delivery its primary service objective. The American public rates dependability of service above fast delivery or lower cost.

#### *Electronic communications*

(5) The Postal Service immediately should pursue opportunities to provide services which utilize existing electronic communications with the unique collection and delivery system of the Postal Service.

(6) For the future, the Postal Service should determine within the next 2 years whether the communications needs of the American public require the Postal Service to provide services using electronic communications to collect, transmit, and deliver messages.

#### *Public service appropriations*

(7) The level of public service appropriations should be increased moderately to 10 percent of postal expenses incurred in the preceding fiscal year.

(8) Congress should appropriate \$625 million to eliminate the present Postal Service accumulated indebtedness incurred for operating expenses.

*Postal rates and classifications*

(9) Congress should amend the law to prescribe criteria for the establishment of postal rates so that factors other than cost causation shall be taken into account in distributing a significant portion of total postal costs.

(10) Congress should enact legislation to retain the four major classes of mail for the transmission of letters, newspapers, and other periodical publications, advertising matter and parcels.

(11) A general relaxation of the private express statutes is not in the public interest because it would impair the ability of the Postal Service to meet its nationwide service obligations. The Postal Service should, however, permit carriage of time-value letter mail if the Postal Service is not prepared to offer generally comparable service. Congress should determine the scope of the private express statutes.

*Organization of the postal system*

(12) The Board of Governors of the Postal Service should be preserved, and the Postmaster General and Deputy Postmaster General should continue to be appointed by, and serve at the pleasure of, the Governors.

(13) The Postal Rate Commission should be preserved and given final authority in rate and classification proceedings, subject only to judicial review.

Considerable criticism of the Commission report was engendered, particularly with respect to proposed service cuts.

Both disappointment and satisfaction was expressed during hearings held on the Commission report on April 28 and May 9 (Serial No. 95-26). Testifying for the Commission was Chairman Gaylord Freeman, David Johnson, Paul Krebs, and James Rademacher. Messrs. Krebs and Rademacher presented minority views on some of the recommendations.

Subsequently, Chairman Clyde Du Pont, ex officio member of the Commission, testified for the Postal Rate Commission. No Postal Service witness appeared.

Since H.R. 7700 was being developed at the time and it was hoped that hearings would be imminent, it was decided to hold no more hearings on the Commission report.

Commission recommendations regarding postal ratemaking policy, size and weight limitations for parcels, legal representation of the Postal Service and Postal Rate Commission, and the independence of the Postal Rate Commission were included in H.R. 7700. In addition, H.R. 7700 addressed concerns raised by the Commission in other areas, notably research and development and the need for greater public service appropriations, but with somewhat stronger recommendations.

## POSTAL SERVICE BUDGET HEARINGS

Public Law 94-421 (H.R. 8603) required, among other things, that the Postal Service submit the House and Senate Post Office Committees the same budget data submitted annually to the Office of Management and Budget, a statement of compliance with the postal policy section of the Postal Reorganization Act, and other material. The law also requires that Postal Service officials appear before the respective committees prior to March 15 of each year to respond to questions about postal finances and policy.

The first year under this provision of law was 1977. The committee chairman, Representative N. C. Nix, delegated the responsibility for holding the designated hearing to the Subcommittee on Postal Operations and Services. The subcommittee suffered a slight handicap, however, since subcommittees were not organized until approximately 6 weeks before the required hearing and the Postal Service material was not submitted until mid-January.

Nevertheless, the subcommittee and full committee staffs worked together with officials loaned by the General Accounting Office, the Postal Rate Commission and the Commission on Postal Service to analyze the Postal Service material and prepare for the hearings. Numerous staff meetings were held in January, February, and March and a full subcommittee briefing session was held on March 14, 1977.

The hearing was held on March 15, with the chief witness being Postmaster General Bailar (Serial No. 95-16). It is expected that this procedure will become an important part of the congressional oversight of Postal Service activities.

## MAIL CLASSIFICATION ISSUES INVOLVING SCIENTIFIC JOURNALS AND FREE PUBLIC SERVICE

Some mail classification issues are contained in H.R. 7700, though, in general, the subcommittee hesitates to become involved in classification matters which are the jurisdiction of the Postal Rate Commission.

However, two mail classification issues arose in 1977 which, while resolved administratively after the expression of congressional concern, have engendered continued interest in Congress. The two issues are closely related and their resolution came through a change in the same section of the postal manual.

Postal rates for periodicals are computed on the basis of the mix of editorial and advertising material. Advertising material is charged a considerably higher rate than editorial material.

Many scientific journals either require or request "page charges" to be paid prior to the printing of a paper. In some cases, a scholar's paper cannot be printed unless payment has been received, in a greater number of cases, the charges are voluntary, though they are usually paid.

A few years ago, the Postal Service began to question whether such material should be charged the editorial rate. The ultimate conclusion

was that the material must be considered advertising under section 1734 of title 18, U.S.C. which states that :

Whoever, being an editor or publisher, prints in a publication entered as second-class mail, editorial or other reading matter for which he has been paid or promised a valuable consideration, without plainly marking the same "advertisement" shall be fined not more than \$500.

The Postal Service then began to move against scientific journals on a very selective basis. The Postal Service wanted to require that the advertising rate be paid on all articles for which page charges had been paid and, moreover, that every page of such articles be marked as advertising.

A predictable outcry was raised by the scientific community, led by the National Academy of Sciences. While the legal position of the Postal Service was strong, the scientific journals argued that such articles should never have been considered advertising in the first place and in fact never had been until the Postal Service raised the issue.

Ultimately, the Postal Service agreed with the scientific community and the subcommittee. On May 27, 1977, the Postal Service published in the Federal Register amendments to the postal manual which in a large part met the objectives of publishers of scientific journals. As the summary of the rules change indicated :

The rule, among other things, revises 125.52 of the Postal Service manual to simplify and more precisely define the term "advertising." It also incorporates administrative rulings of the Postal Service to the effect that, if an advertising rate is paid for the publication of reading matter or other material in a second-class publication, such material is deemed to be "advertising." Under 125.52 articles published in scientific journals or other second-class publications would not be considered "advertising" for rate purposes, even though the author paid a fee for the publication based upon the number of printed pages. Such articles, however, continue to fit the definition of "advertisement" in 132.7, which requires disclosure that valuable consideration has been paid or promised for the publication of editorial or other reading matter. In this connection, 132.7, which deals with the marking of paid reading matter with the word "advertisement," is amended by limiting the required marking to one page of a piece of reading matter, regardless of the total number of pages.

The Postal Service maintained, however, that it had no authority to waive completely the requirement that articles for which a consideration was received must be marked as advertising. To do so would require a change in title 18, United States Code, which is not under the jurisdiction of the Post Office and Civil Service Committee.

A related issue resolved by the same rules change involved free public service advertising. Under then existing postal regulations, the advertising rate was charged for display advertising regardless of whether or not money was received. This situation severely limited the ability of nonprofit publications to print free, public service advertising in that it would increase substantially their postal bills and

in some cases jeopardize nonprofit status. The issue came to a head when the Postal Service began to enforce vigorously section 125.52 of the Postal Manual against small nonprofit union magazines—but the issue far transcended this. The subcommittee was contacted by the Advertising Council and the AFL-CIO. Chairman Hanley then contacted the Postmaster General who replied on June 15, 1977, as follows.

THE POSTMASTER GENERAL,  
Washington, D.C. June 15, 1977.

HON. JAMES M. HANLEY,  
Chairman, Subcommittee on Postal Operations and Services, Committee on Post Office and Civil Service, House of Representatives,  
Washington, D.C.

DEAR JIM: This has to do with our recent correspondence concerning the question of whether public service advertising which is printed free of charge is nevertheless subject to the advertising rate for second-class mail. You will recall that the Advertising Council and officials of the AFL-CIO had brought this matter to your attention. The question came up because section 125.52 of the Postal Service manual provided that the term "advertisements" includes display, classified, and all other forms of advertisements, without any apparent limitation that would restrict the term to advertisements for which consideration has been paid or promised.

Primarily as a result of a number of questions that have arisen in the last several months in regard to the "page charge" practices of certain scientific journals—a subject with which I believe you are generally familiar—we have reexamined section 125.52 and have concluded that it should be changed. The new version of section 125.52 states that the term "advertising" includes all material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something for the purpose of getting people to buy it, sell it, seek it, or support it. It seems entirely clear that public service advertising which is printed free of charge will not be treated as "advertising" under the new regulation.

Sincerely,

BENJAMIN F. BAILAR.

#### ELECTRONIC MAIL

On April 6 and May 5, 1977, the subcommittee began hearings on the impact of the new electronic communications systems on Postal Service volume. It appears that at that time present postal management did not see the need to put greater emphasis on the research and development of new electronic message systems.

Many experts in the telecommunications field told the subcommittee that unless the Postal Service moves immediately to provide electronic mail service that it will soon be perceived by the rest of the communications industry as a horse and buggy operation. If this is the case then we must recognize that the Postal Service will be faced by crippling losses in volume, skyrocketing rates, reductions in services and the need for greater Government subsidies.

The following are pertinent comments offered by expert witnesses during the course of those hearings.

Dr. Louis T. Rader, Chairman of the U.S. Postal Service Support Panel, Committee on Telecommunications, National Research Council, testified that:

The Panel considered two salient strategies the Postal Service could pursue:

(1) Limit the role of the USPS to "business as usual"—the physical handling of letters, circulars, periodicals, and parcels and the sale of postage stamps. This strategy would probably result in mounting costs, decreasing volumes, and continually rising deficits—a "no win" situation leading inevitable to a deterioration of services and a growing dependency on subsidies.

(2) Commit the USPS to a future that includes modern telecommunications technology, which has radically altered human communications, through either of the following options:

(a) Develop ventures in cooperation with communication carriers, information processing services, and users, capitalizing on the existing strengths of the USPS; and

(b) Provide new electronic services to improve the collection, transmission, distribution, and delivery systems, accepting the fact that this option may produce policy and competition issues in connection with existing or planned communications carrier offerings.

Dr. Rader was very much in support of the second approach.

Roger K. Salamon, Chief, Policy Research Division, Office of Telecommunications stated that that agency believes:

The Postal Service's fundamental problem is that changing technologies are offering many new communications opportunities to the public—opportunities that, in some cases, may be used in lieu of hard-copy mail delivery. In the long run, postal volume and revenue loss will be attributable more to cost trends, which increasingly favor electronic modes of communications, than to inefficient management. If present projects of the inroads of electronic communications on volume are even remotely accurate, the Postal Service could suffer a substantial loss of revenue.

Dr. Fred B. Wood, of the Program of Policy Studies in Science and Technology of the George Washington University, served as one of the principal investigators for a study on electronic mail conducted for the Commission on the Postal Service. Dr. Wood concluded that:

From the perspective of mailstream, the critical juncture of the communications revolution occurred in 1970, the year when the costs of electronic computing dropped below the costs of electronic communications. Lower cost computing permitted the development of "smart terminals" which in turn reduced the cost of entering information into ECS (electronic communications systems) and also simplified the use of

ECS for the less specially trained user. Telephone, televisions, and computers have undeniably played a part for many years in slowing the growth in mail volume. But not until 1970 did the requisite technologies mature to the point of offering an electronic mail potential which can compete head-on with the USPS. If the current USPS mode of operation continues, the prospect is for a continuing postal crisis.

One of the primary concerns relating to the entrance of the Postal Service into electronic communications is the small amount of money presently allocated for research and development. Between 1971 and 1976, the Postal Service budgeted an average of only \$22 million a year for research and development. The Postal Service budget for fiscal year 1978 for research and development is \$32 million, less than one-fifth of 1 percent of the Postal Service's expenditures.

This level of funding indicates that future plans to become involved with new electronic communications systems is a low-priority item at postal headquarters. If postal management continues with a scaled down research and development program and then decides that they must become involved with electronic mail it could be too late. The window of opportunity could pass by the Postal Service.

Because the Postal Service has done little to demonstrate an interest in electronic communications, the subcommittee felt the matter needed to be addressed in the Postal Service Act of 1977. The role of the Postal Service in this field may become such an important policy consideration that the President and Congress will have to make the decision. But careful planning and consideration of the impact of electronic communications upon the Postal Service and study of the feasibility of the Postal Service entering the field is initially important.

The subcommittee recommends that the research and development program of the Postal Service be expanded and that by fiscal year 1980 total expenditure for this function be equal to not less than 2 percent of the previous year's postal revenue and be maintained at that level thereafter. The subcommittee also recommends that the Postal Service prepare and submit to the Congress within 1 year after the effective date of the Postal Service Act of 1977 a report on electronic communications.

#### POST OFFICE CLOSINGS

During the 94th Congress the subcommittee gave a great deal of attention to the closing and consolidation of post offices. In 1975 and 1976, the Postal Service, backed by a recommendation by the General Accounting Office (GAO) that 12,000 post offices could be closed at a savings of \$100 million, promulgated new, less stringent regulations relating to post offices. There ensued a strong negative reaction by both Members of Congress and the general public.

The predominant opinion was that the Postal Service should have stricter regulations protecting postal users from a precipitous post office closing or consolidation. This issue was resolved in H.R. 8603 (Public Law 94-421) which establishes rigorous criteria for post office closings.

On November 15, 1977, the Postal Service issued in the Federal Register its Regulations on the Discontinuance of Post Offices. These regulations conform postal regulations to Public Law 94-421. The procedures are as follows:

(1) A copy of a written proposal to close or consolidate should be posted in each office;

(2) There should follow a 60-day period for public comment on the proposed change;

(3) The Postal Service will then take as long a period of time as is needed for consideration of comments and internal review and then make public notice of final decision;

(4) A determination to close or consolidate may be appealed by any person served by that office to the Postal Rate Commission within 30 days after decision is announced;

(5) The Postal Service must wait at least 60 days after the announcement of a decision before closing or consolidating a post office; and

(6) The Commission should make a determination based on a review of the appeal no later than 120 days after receiving the appeal.

Despite this statutory mandate, and the recent Postal Service regulations, the agency has consistently reduced or eliminated services which the public expects. Post office in small towns which have served the town as long as it has existed have been closed. Taking this into consideration, this matter was included in H.R. 7700. The public service appropriations provided for in this bill are designed to protect small post offices.

The public service appropriations specifically designed to "provide a maximum degree of effective and regular postal service nationwide, in communities where post offices may not be deemed self-sustaining as elsewhere."

#### WORKERS COMPENSATION BUDGET IMPACT

In 1976, Chairman Hanley and Representative Charles H. Wilson, Chairman of the Postal Facilities and Labor Subcommittee, jointly requested a GAO investigation into the rising costs of the workers compensation program as it affects Postal Service finances. Although matters relating to Postal Service personnel are under the jurisdiction of Chairman Wilson's subcommittee, Chairman Hanley felt that due to the financial aspects of this matter it should be studied jointly.

GAO submitted its report "Administration of the Workers Compensation Program," to the chairmen on July 8, 1977. This report confirmed that the cost of the program to the Postal Service have risen dramatically since the September 1974, amendments to the Federal Employees Compensation Act became effective. The total annual cost has risen from \$46.8 million in 1973 to \$146.7 million in 1976, an increase of over 213 percent. The number of postal employees receiving workers compensation has increased 69 percent since fiscal year 1973.

Although the GAO identified some problems that the Postal Service could correct and thereby hold down costs, other problems came to its attention that restrict the Postal Service's ability to control the costs of the program. All of these hindrances are a result of the implementation of the Workers Compensation Act Amendments of 1974.

The GAO noted that the U.S. Postal Service does not have the legal authority permitting the agency to formally appeal or refute an OWCP decision. In addition to this, since 1974 employees have been allowed free choice of physicians. This has led to charges by Postal Service officials that in some cases employees will shop around until they find a physician who will back his or her claim. Finally, the former 3-day working period until employee can receive compensation was moved to the end of the 45-day continuation of pay period. The Service feels that this 3-day out-of-pocket expense to employees was a deterrent from frivolous claims. The GAO report states that "changes in the law and procedures for administering workers compensation have been recommended by the House Committee on Government Operations (H. Rep. 94-1757, October 6, 1976) and the Department of Labor's task force on OWCP in June 1977. These recommendations may correct some of the problems cited by Service officials."

The Postal Service testified before the House Subcommittee on Compensation, Health and Safety and indicated they were in favor of legislative changes. In a letter to Chairman Hanley, Postmaster General Bailar indicated his concern. He stated:

The rapidly escalating costs to the Postal Service of the Federal Employees Compensation Act are a matter of great concern to me.

Fiscal year 1977 expenses to the U.S. Postal Service will be \$629.1 million to cover both current year payments and the estimated future liabilities—a drastic increase from the \$94 million for fiscal year 1974. Our cumulative long-term liability under this program has now reached \$1.2 billion.

Unlike the former Post Office Department or other Government agencies, the Postal Service uses accrual accounting. I think that other agencies may be having experiences similar to ours although their accounting practices do not reflect that situation.

In July of this year, the Postal Service testified before the House Subcommittee on Compensation, Health and Safety (copy attached).<sup>1</sup> We outlined in detail some badly needed improvements in the Federal workers compensation program which we felt would assist in controlling costs while not abrogating our responsibilities to protect the income of any employee who suffers a job related injury or illness.

The GAO report also indicated that although the Postal Service has improved its management and administration of the workers compensation program, more could be done. The following recommendations could improve service to employees, cut USPS costs and would not necessitate any change in current law.

- (1) Reemphasize to managers, supervisors and control office officials the importance of timely claims processing;
- (2) Assign sufficient staff to prevent a claims backlog;
- (3) Instruct all involved personnel in proper claims processing;
- (4) Instruct field offices to monitor controverted claims;
- (5) Develop guidelines for field offices to determine when claims should be controverted and how to adequately support a controversion;

<sup>1</sup> Not included.

(6) Reemphasize to managers the need for effective disciplinary action against employees who abuse leave or have numerous accidents because of unsafe working habits;

(7) Tell field offices to establish procedures for and more effectively use limited duty work assignments and to continue working with physicians to place injured employees in such assignments; and

(8) Develop uniform procedures to notify OWCP when employees receiving compensation return to work.

The subcommittee will continue to monitor Postal Service's management of the program and any legislative changes.

## SUBCOMMITTEE ON POSTAL PERSONNEL AND MODERNIZATION

During the first session of the 95th Congress, the subcommittee conducted reviews of a number of matters including:

- (1) Postal reform legislation;
- (2) USPS research and development into electronic mail;
- (3) Postal supervisors arbitration rights;
- (4) Military mail;
- (5) Facility consolidation;
- (6) Representation in grievance proceedings;
- (7) Charitable solicitation disclosure requirements.

### PROGRAMS REVIEWED

#### *Postal reform legislation*

On the first day of the 95th Congress, January 4, 1977, Chairman Wilson introduced major postal reform legislation. The bill, H.R. 19, was the subject of hearings on March 16 and 23.

On June 9, a new bill, H.R. 7700, which incorporated the provisions of H.R. 19 and other reform concepts was jointly sponsored by Mr. Hanley and Mr. Wilson.

H.R. 7700 was jointly referred to the Subcommittee on Postal Personnel and Modernization, and the Subcommittee on Postal Operations and Services.

Joint markup meetings were held on September 23, 27, and October 4, 1977. On October 4, the two subcommittees approved H.R. 7700, with amendments, by unanimous voice vote.

The Post Office and Civil Service Committee markup meetings were held on October 12 and 18, 1977. On October 18, the committee ordered H.R. 7700 favorably reported, as amended, by a record vote of 19 to 4.

H.R. 7700 represents a serious effort to correct the most significant problems facing the U.S. Postal Service.

Within the jurisdiction of the Subcommittee on Postal Personnel and Modernization was a provision in H.R. 7700 calling for direct Presidential appointment of the Postmaster General, with Senate confirmation, and an elimination of the USPS Board of Governors.

As noted in the committee report on the bill, one of the principle aims in postal reorganization was to remove partisan political considerations from postal operations. The system designed to accomplish this included the long-range plan to achieve a virtually self-sustaining postal system in which revenues from postal rates and permanent appropriations would cover total postal costs. As the need for additional funds appropriated out of the Treasury declined, the Presidential administration would no longer need to consider postal policy as part of the administration's program.

Equally important was the removal of top postal management from direct responsibility to and control by the Presidential administration in power. This was to be accomplished by establishing a part-time Board of Governors of the Postal Service. The nine Governors, appointed by the President with the advice and consent of the Senate for terms of 9 years each, would serve for the principal purpose of selecting the Postmaster General. Although the law requires that "the exercise of the power of the Postal Service be directed by a Board of Governors" and that "the Board shall direct and control the expenditures and review the practices and policies of the Postal Service," the chief purpose was to isolate postal management, and particularly the Postmaster General and the Deputy Postmaster General, from direct partisan political connections.

Seven years' experience has demonstrated that the system has either not worked well or, perhaps, has worked too well. Three Postmasters General chosen by the Governors have been isolated from political control to the extent that Presidential administrations have virtually abdicated responsibility for the Postal Service being a major function of the U.S. Government. Postmaster General Benjamin F. Bailar testified before the Senate Committee on Post Office and Civil Service last year that his efforts to reach the Director of the Office of Management and Budget to confer on critical financial problems only resulted in his telephone calls remaining unanswered. Administration officials under both Presidents Ford and Carter refused invitations to testify before the Commission on Postal Service, which sought their views on postal financial problems. This year, the Committee on Post Office and Civil Service repeatedly invited the Postmaster General to testify on H.R. 7700 but to no avail. The isolation has been all too complete.

The Governors of the Postal Service have done little to fulfill their responsibilities other than to select the Postmaster General. Although postal costs have almost doubled since postal reorganization, the Governors, as a matter of policy, do not even review collective bargaining agreements between the Postal Service and postal labor unions. The bulk mail system, which cost \$1 billion, was, according to the minutes of the meetings of the Governors (when they met in closed session) discussed only briefly at two meetings. Postal projects costing less than \$10 million are not brought to their attention. Since public meetings began, the Governors chiefly attend to routine business and listen to selected postal officials narrate film presentations on postal operations. The U.S. Court of Appeals for the District of Columbia circuit found the postal rate increase filing in 1975 invalid because the Governors failed to devote sufficient attention to their responsibility to approve specific postal rate requests.

With two exceptions, no person has been appointed to be a Governor who had any knowledge of postal affairs prior to his appointment. Although all of the Governors, as private citizens, may be broadly experienced in their respective businesses and professions, management of the largest civilian agency in the Government requires special knowledge. The overall performance of the Board of Governors has been unsatisfactory. Even the Commission on Postal Service, which favored retention of the Governors, stated:

In the past the Governors have failed to exercise initiative on vital matters affecting the Postal Service. \* \* \* Their oversight has been minimal and insufficient and they have not been inclined to advise postal management on major policy issues.

On October 30, 1976, President Carter, as a candidate, expressed his support for legislation to restore the Postmaster General to a position appointed by the President with the advice and consent of the Senate. In hearings before this committee, the Executive Assistant Director of the Office of Management and Budget testified, in behalf of the President, that the Postmaster General be appointed by the President with the advice and consent of the Senate for a term of 6 years.

H.R. 7700 provides that the President appoint the Postmaster General with the advice and consent of the Senate, and that the Board of Governors be abolished.

If the Postmaster General is appointed by the President, he will be responsible to the President and, equally important, the fulfillment of postal policy will be a responsibility of the President. That is the best method of insuring an effective Postal Service. Since the Board of Governors was created principally to appoint the Postmaster General, there would be no useful role for the Governors to play when the Postmaster General is no longer even fictionally responsible to them.

Prior to postal reorganization, the Postmaster General was appointed by the President with the advice and consent of the Senate for a term of 4 years, but the term of office was meaningless. The committee prefers the basic constitutional principle that the authority of the President to appoint his chief ministers involves the power to remove, at his pleasure.

Postal policy is too important to be isolated from the responsibilities of the President and the Congress. Knowledgeable students of communications recognize that in the next decade or two the postal system will probably undergo radical changes. The American people expect their elected leaders to consider and resolve postal problems as effectively as other national problems. By restoring the leadership of the Postal Service to a status responsible to the President, and by increasing congressional oversight in postal matters, that executive and legislative responsibility can be fulfilled.

#### *Research and development*

The subcommittee during the past year commenced an ongoing investigation of the postal research and development activities with regard to electronic mail concepts.

The subcommittee issued a transcript of its first formal briefing on the subject by postal officials (serial No. 95-45). This document also includes related information on the subject.

Indeed, increased research and development funding is a major provision of H.R. 7700, as reported by the committee.

The Postal Service must expand its research and development program. Although mechanization and modernization of the postal system was proposed as a key to the success of postal reorganization, the Postal Service's efforts to develop new systems and improve existing

methods have been woefully inadequate. Between 1971 and 1976, the Postal Service budgeted an average of only \$22 million a year for research and development. In the private sector, research and development usually involves the expenditure of 3 to 5 percent of a major corporation's expenditures. The Postal Service budget for fiscal year 1978 for research and development is \$32 million, less than one-fifth of 1 percent of Postal Service expenditures.

Although electronic communications has already begun to erode first-class mail volume, particularly intracompany correspondence, the Postal Service has done nothing to demonstrate any interest in electronic communications. The role of the Postal Service in electronic communications may become such an important policy consideration that the President and the Congress will have to make the decision. But careful planning and consideration of the impact of electronic communications upon the Postal Service and study of the feasibility of the Postal Service entering the field is vitally important. The failure of the Postal Service to do this has been irresponsible.

H.R. 7700 provides that the research and development program of the Postal Service be expanded immediately and that by fiscal year 1980, the total expenditures for this function be equal to not less than 2 percent of the previous year's postal revenues, and be maintained at that level and thereafter. The Postal Service shall prepare and submit to the Congress within 1 year after the effective date of this act a report on electronic communications.

#### *Capital projects*

Section 11 of H.R. 7700 limits the Postal Service's authority to undertake major capital expenditures.

The new procedure will require the Postal Service, in any case involving any expenditure exceeding \$9 million, to present to the Congress a detailed description of the project.

The congressional committees having jurisdiction over the Postal Service may review the project and "shall transmit" a report to the Postal Service within 4 months.

The Postal Service may not commence such a project until the congressional report has been received.

If the congressional committees fail to submit their reports to the Postal Service within the 4-month period, the Postal Service may proceed.

#### *Sea transportation of U.S. mail*

Section 12 of H.R. 7700 changes the method of transporting surface international outgoing mail. Under current law, the Postal Service contracts for the international carriage of surface mail with American and foreign carriers at negotiated rates. American carriers are generally preferred, and rates paid American carriers are about 25 percent higher than foreign rates. There were 123 million pounds of surface international mail last year.

Under the committee recommendation, the Postal Service would be required to contract with American carriers unless no American carrier served the route, and the rate would be based on fully distributed costs plus a fair profit. The Postal Service would be prohibited from specifying the size or characteristics of containers, a current practice

which has been used to discriminate against American carriers. Currently, the Postal Service generally specifies in its advertisement for a 20-, 35-, or 40-foot container.

#### POSTAL SUPERVISORS' ARBITRATION RIGHTS

A hearing on H.R. 7132, sponsored by Representative William L. Clay of Missouri, was held on July 25, 1977, by the Subcommittee on Postal Personnel and Modernization of the House Post Office and Civil Service Committee.

The subcommittee approved the bill by a unanimous vote on the same day.

On July 27, 1977, the full committee ordered the bill reported by a voice vote.

The House of Representatives passed the bill by voice vote on September 26, 1977.

Section 1004(b) of title 39, United States Code, reads as follows:

(b) The Postal Service shall provide a program for consultation with recognized organization of supervisory and other managerial personnel who are not subject to collective bargaining agreements under chapter 12 of this title. Upon presentation of evidence satisfactory to the Postal Service that a supervisory organization represents a majority of supervisors, or that a managerial organization (other than an organization representing supervisors) represents a substantial percentage of managerial employees, such organization or organizations shall be entitled to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory and other managerial employees.

The specific terminology of section 1004(b) was the result of careful consideration by both Houses of Congress, and was designed to carry out the intent of the Congress, as determined in conference between the House and the Senate, that postal supervisors and other managerial organizations have a definite role in determining decisions regarding their own employment, but not to the extent of actually engaging in collective bargaining with binding arbitration, as was given to rank-and-file employees.

No clearer violation of congressional intent has occurred than in the Postal Service's lengthy refusal to follow the mandate of Congress to insure postal supervisors and other managerial officers the right to "participate directly" in the determination of their pay and related benefits.

It is clear that since the creation of the U.S. Postal Service effective July 1, 1971, top postal management has virtually ignored these provisions of law and have failed to provide postal supervisors, represented by the National Association of Postal Supervisor (NAPS), their congressionally mandated participation rights. The Postal Service has held what amounted to "discussion sessions" which resulted in the mere transmitting of decisions already made to supervisory organizations.

This policy of no consultation in advance led to a sharp decline in the morale of supervisory personnel, particularly after the implementation of the controversial job evaluation program. This program was investigated in detail by the House Post Office and Civil Service Committee in 1971 (see committee print 92-13). The initial planning and development stages of that program were completed prior to NAPS even being informed that the program was to be carried out.

The Postal Service's refusal to comply with the language of section 1004 led the National Association of Postal Supervisors to seek relief in the courts in March 1972. The result of this action finally, was an agreement between NAPS and the Postal Service signed on March 22, 1974.

According to USPS management, this agreement established procedures which will result in direct participation by the supervisors in the planning, development, and implementation of programs concerning pay policies and schedules, fringe benefits and other programs relating to supervisory and other managerial employees. The agreement, USPS claims, establishes procedures which reflect essentially the aims of the bill.

There are no enforcement provisions in the agreement, however, and the National Association of Postal Supervisors, has emphasized that postal management heretofore, ignored the law for almost 3 years. In addition, the supervisors have pointed out, continuity of top management at the Postal Service has not been achieved and there is no way of telling what future top officials may decide in regard to compliance with the law.

In addition, the National Association of Postal Supervisors has charged at subcommittee hearings in the past that management pressures, as well as in some instances harassment and intimidation, were directed at officers and some members of their organization.

For several years the subcommittee has been told by the postal management that the difficulties and friction with supervisors could all be worked out through the agreement without this legislation.

Unfortunately, however, it has become clear with various continuing legal action brought against the Postal Service by the National Association of Postal Supervisors that, if anything, the relationship between postal management and supervisors has deteriorated.

After careful study of the situation, the committee decided that in order to reverse permanently this unsatisfactory trend, the Postal Reorganization Act should be amended with respect to supervisory rights.

This bill accomplishes that goal through its arbitration procedures, and reaffirms the belief which Congress expressed in the Postal Reorganization Act of 1970 that, while postal supervisors are a part of management, they still have certain rights as employees because of their unique position, which differs substantially from most supervisory personnel in private industry.

This legislation insures that the current law providing for consultation and participation rights will be respected by postal management. The committee emphasizes that the arbitration provisions of this bill do not in any way create a form of collective bargaining similar to that for rank and file postal employees, and does not allow supervisors to join rank-in-file unions.

It is not the intent of this bill to bring matters of a trival nature before the arbitration board. Only disputes which affect all or a substantial portion of supervisory personnel on a long-term basis can be referred to arbitration. In the event the Postal Service and the supervisory organization cannot agree upon whether a particular issue is eligible to be referred to arbitration, the arbitration board will make the determination.

The committee contends that not only would the establishment of such an arbitration board render fair and impartial in disputes, but also, that the existence of the board would encourage more cooperation and consultation between the supervisory organization and the U.S. Postal Service.

#### MILITARY MAIL

Chairman Charles H. Wilson and other members of the Subcommittee on Postal Personnel and Modernization and the full committee (Representatives William Clay, Michael Myers, and William Ford) with staff, conducted an overseas inspection of the U.S. Armed Forces Military Postal System—Europe, during the period from April 7, 1977 through April 18, 1977.

The purpose of this inspection trip was first to confirm whether any of the deficiencies noted in the Military Postal Systems of the Orient were also to be found in the U.S. Armed Forces Postal System in Europe.

Second, to determine, if possible, what steps were taken by the U.S. Postal Service, Department of Defense, and the mail carriers to improve the movement of mail during the 1976 Christmas season. The subcommittee chairman received a letter from Gen. George S. Blanchard, Commander in Chief of the Army, Europe, stating that the subcommittee efforts were instrumental in achieving the outstanding mail service which was experienced during the recent holiday season. The subcommittee recognizes that since those parties who operate the military mail system were able to improve the operation of the system in reaction to the subcommittee's interest, it is important that the subcommittee find out, firsthand, how this improvement was achieved and its duration. Third, the subcommittee wanted to confirm whether or not any action had been taken by the Department of Defense to implement the recommendations contained in the subcommittee report, "A Review of the U.S. Military Postal System" issued in December 1976.

Specifically, during this inspection trip the subcommittee observed:

(1) That the transit time from the United States to Europe for military mail is inordinately long;

(2) That there are insufficient personnel to enable the military mail postal system to work efficiently;

(3) That the facilities are outdated, small and in poor condition and lack the normal support areas such as parking lots and loading docks;

(4) That there is an insufficient amount of equipment, and the equipment that is available such as scales, stamp machines, lock boxes and simple mail processing machines are in shoddy condition because of long years of use,

(5) That to replace the worn out equipment, the overseas military postal chiefs have to send old equipment back to the United States and wait for its replacement which leaves them without any mechanical assistance at all during that period of replacement—when the new equipment arrives, it is usually a rebuilt aged model;

(6) That a number of mailers who sell products to servicemen such as Sears, Montgomery Ward, and J. C. Penney, wrap their articles in such flimsy containers that they are more often than not ripped open and damaged even before they arrive in Europe; and

(7) That there is no formal method to communicate with the Department of Defense or the U.S. Postal Service when mail arrives late or in a damaged condition.

The subcommittee believes that our soldiers are entitled to and indeed the law mandates that they receive good mail service. The Congress has enacted legislation so that this goal can be accomplished. On this inspection, the subcommittee found that the Department of Defense is maintaining an inadequate mail service, and is not taking the necessary steps to improve the military postal system.

Based on this fact, the subcommittee intends to hold further military mail hearings in the near future to determine why its recommendations are not being carried out. During the hearings officials of both the Department of Defense and the U.S. Postal Service will be asked to testify and explain the apparent inaction.

#### MARINA DEL REY MAIL PROCESSING CENTER

As a result of substantial controversy surrounding the new Marina del Rey Mail Processing Center, Chairman Wilson sent the subcommittee staff director, George B. Gould, to conduct an onsite investigation of the problem.

The new facility will substitute for the present Inglewood Sectional Center which processes mail for 22 post offices while serving 1.7 million people and employs approximately 4,000 postal workers in the area.

The U.S. Postal Service proposes starting the first phase to relocate the affected employees on October 15, 1977, and over a period of approximately 3 years, transfer 1,300 distribution clerks from the 22 offices. This action will be one dealing with the transferring of manpower and not a reduction in service.

The present Inglewood (Calif.) Sectional Center processes mail for an area from Malibu in the north to the Palos Verdes Peninsula in the south and to Downey in the east.

The Center includes 22 post offices and serves a population of 1.7 million people with a postal employee complement of 3,995.

The function of the Center is to provide a point of concentration for mail moving between the post offices encompassed in the Sectional Center area. This is part of a national program by which the U.S. Postal Service is attempting to move the processing of mail from the small post offices where it is generally handled manually to large, modern mechanized centers where the mail hopefully can be processed more efficiently, more expeditiously and more economically.

While there have been some problems in rural locales, this program has apparently worked well in metropolitan areas with a high concentration of population.

There is a heavy population density in the area that will be served by the new Marina del Rey Mail Processing Center.

Despite charges leveled by opponents of the area consolidation plan, the subcommittee staff director found no evidence whatsoever to support the contention that implementation of the plan would result in a reduction in service.

After touring the new Marina del Rey facility, a number of small post offices to be served by the new processing Center, the present Inglewood Sectional Center, and talking to disgruntled employees (who call themselves Citizens for a Better Postal Service) as well as management representatives, the subcommittee staff director concluded that the Marina del Rey Mail Processing Center would create a superior working environment for the employees, should save the U.S. Postal Service money and would at least maintain the present level of service, if not improve it.

The Marina del Rey Mail Processing Center is located at 13031 Jefferson Boulevard, Los Angeles, Calif., on a 20-acre site. The building is 329,500 square feet in size and will include eight lettersorting machines, eight Mark II facer cancellors and a tray transport conveyer system. It will cost approximately \$14.5 million.

The employees will have the following environmental advantages:

(1) A large, modern, air-conditioned working space for processing the mail;

(2) A lunchroom that will have a seating capacity for 200 people opening onto a walled tree-lined outdoor patio—the lunchroom will include a complete line of vending machines, hostess-type food services, tables, chairs, couches and recreational equipment;

(3) There will be a 633-car parking lot surrounded by a security fence;

(4) There will be a fully equipped medical unit on the premises staffed with nurses and a doctor; and

(5) There will be two classrooms, a training room, a scheme training room, one self-study unit, and a library.

The employees will have these advantages versus the present Inglewood Sectional Center, which is located in two old, inadequate, crowded, substandard buildings. These buildings are leased from two different firms, thereby preventing the Postal Service from joining the buildings with a common causeway. Thus, the mail must be moved from one building to the other outdoors.

While the Postal Service has done its best to improve the working conditions at the two buildings, they remain dilapidated, cramped, and unsafe. The opposition to the Marina del Rey Center is mainly coming from approximately 15 employees who work in the Santa Monica and Venice post offices. It is interesting to note that these two post offices are very old and also have a very antiquated and cramped working environment.

The rest of the employees who work in the other post offices in the Sectional Center area appear to be either indifferent to the move or

supportive. The staff director could find no pervasive opposition to the consolidation from employees in the other post offices in the Inglewood Sectional Center area (Beverly Hills, Inglewood, Torrance, Bell, Compton, Culver City, Downey, El Segundo, Gardena, Hawthorne, Huntingdon Park, Lawndale, Lynwood, Malibu, Manhattan Beach, Pacific Palisades, Palos Verdes Peninsula, Redondo Beach, South Gate, and Topanga). Those employees that are presently working in the old Inglewood Sectional Center strongly support the consolidation and are eager to move for obvious reasons.

After touring hundreds of postal facilities since serving with the Post Office and Civil Service Committee, and based on previous experiences as a postal employee, the staff director would look forward to working in the modern Marina del Rey Center.

#### "ALLIANCE" BILL

H.R. 2722, sponsored by Representative Parren Mitchell, was ordered favorably reported by the subcommittee on October 4, 1977.

H.R. 2722 would amend title 39, United States Code, to allow employees of the U.S. Postal Service to choose in grievance and adverse action proceedings a representative other than the recognized bargaining representative. However, if an employee selects a representative other than a recognized bargaining representative, the bargaining representative shall have the right to be present at any such proceedings.

#### CHARITABLE SOLICITATION DISCLOSURE

On the first day of the 95th Congress, Chairman Wilson introduced legislation which would require organizations soliciting charitable contributions from the public to disclose some basic information about how that money is spent and thereby is intended to protect the American public and responsible charities from dishonest moneymaking schemes and grossly inefficient operations.

Specifically, the bill would require a charitable organization which solicits "in any manner or through any means, the remittance of a contribution by mail" to state at the time of solicitation its legal name and principal business address, the purpose of the solicitation and the intended use of the contribution, and the percentage of the previous year's contributions which actually went to the charitable purpose—as opposed to fundraising and administrative costs. Also, the organization must provide more detailed financial information upon written request and state that such information is available.

In the previous Congress, H.R. 10922 was approved by the House Committee on Post Office and Civil Service, but did not reach the floor for consideration.

Hearings representing the most extensive effort by any congressional committee to put all segments of the voluntary sector on record with respect to charity disclosure and regulation, were held in March.

On July 25, 1977, H.R. 41 was ordered favorably reported by the subcommittee with a series of amendments sponsored by Chairman Wilson, which grew out of recommendations at the hearings.

## SUBCOMMITTEE ON CENSUS AND POPULATION

During the first session of the 95th Congress, the Subcommittee on Census and Population conducted reviews of 10 subject matters. The subcommittee approved six bills. Four measures were reported by the committee and passed by the House. The Senate acted on three of the subcommittee's bills all of which were subsequently signed by the President.

The jurisdiction of the subcommittee is divided into three principal categories: (1) The Bureau of the Census and the collection, processing and analysis of data and statistics by the Federal Government; (2) Population and demography; and (3) Holidays and celebrations.

Major subjects reviewed were:

- (1) Proposed content of the 1980 census questionnaire;
  - (2) Census pretests;
  - (3) Projected costs of the decennial census;
  - (4) Census legislation;
  - (5) Collection and publication of world population data;
  - (6) Neighborhood statistics;
  - (7) Agricultural census;
  - (8) Coordination of Federal statistical programs;
  - (9) Collection of data on foreign ownership of U.S. property;
- and
- (10) Holidays and celebrations.

### PROPOSED CONTENT OF THE 1980 CENSUS QUESTIONNAIRE

The enactment of the mid decade census law in 1976 enabled Congress to assume a greater involvement in the preparation of the decennial census questionnaire. In April, pursuant to the new law, the Bureau of the Census submitted to Congress the proposed subject categories to be covered in the 1980 Census. Afterwards, the subcommittee initiated a survey of Federal agencies identified by the Bureau as the major users of census data. The survey required each agency canvassed to provide the subcommittee with the requisite legal or equivalent program documentation that would justify the inclusion of an item on either the long or short questionnaire.

The Bureau of the Census and agency representatives participated in a series of hearings on the issue of questionnaire content and relevancy to the information needs of government and society. Agency responses were included in the subcommittee's hearing record (Serial No. 95-41).

These hearings also focused on the impact census questions may have on promoting or discouraging public participation in the census especially among minority groups. Members of the Census Bureau's Minority Advisory Committees who observed the pretests submitted testimony to the effect that the questionnaire content has an important

effect on community response. As it stands now census forms are designed to facilitate computer processing of the information. In the subcommittee's view the forms can and should be simplified.

The subcommittee plans additional study of the content and design of the questionnaire.

#### 1980 CENSUS PRETESTS

The pretests are an important aspect of the decennial census. Inasmuch as questions and procedures are tested under simulated census conditions, the results from these exercises have historically provided a reasonable basis for forecasting the results as well as the costs of the actual census.

In separate hearings (Serial No. 95-42), the subcommittee reviewed the plans for the Oakland, Calif, pretest and the results from the Camden, N.J. test census. The subcommittee discovered during the course of its analysis that:

(1) The mail response rate dropped to an all time low of 49 percent and 41 percent in Oakland and Camden respectively compared to 1970 pretest results;

(2) About 65 percent of the questionnaires returned by mail in Oakland, should have been followed up by enumerators—in Camden, about 67 percent of the returned forms were incomplete;

(3) The questions on income and ethnicity caused the most incompletions according to a Bureau of the Census trace sample of returned questionnaires that was specially processed for the subcommittee;

(4) The actual costs of the pretests exceeded the allotted budget;

(5) Results from a special survey conducted by the Bureau of the Census suggest that Camden census pretest data may have been in error for as many as 40 percent of the households enumerated; and

(6) The average per person costs have risen from approximately \$1 in 1970 to an estimated \$8 for the 1980 pretests.

In light of these facts the subcommittee advocated postponing the dress rehearsal in April, 1978, until the Bureau of the Census could adequately assess the implication of these results for the decennial census. In the subcommittee's view, the evidence, while not conclusive, indicates that the 1980 Census will not only be the most expensive data collection project ever sponsored by the Federal Government; it potentially may be the least accurate.

The subcommittee solicited the views of the Oakland census staff about the pretest generally as well as any problems encountered by them during their employment as a census worker. Different questionnaires were prepared for enumerators and supervisors. Their responses are now being tabulated. The subcommittee intends to analyze their comments and observations carefully.

#### PROJECTED COSTS OF THE DECENNIAL CENSUS

The estimated costs for the 1980 census have steadily climbed during the past months. Beginning with a projection of \$565 million early

this year, the Bureau of the Census has since revised its estimate upward to approximately \$874 million. The increase can be attributed in part to the cost overruns incurred in the pretests. The effect these higher costs may have on pushing the decennial budget even higher—perhaps over the billion-dollar level—was the subject of a General Accounting Office audit. In their letter report to the subcommittee on October 11, 1977, the GAO concluded that: "The \$874 million estimate may need to be revised upward because no provision was made for cost escalation." In other words, the current estimate makes no allowance for inflation or the recently enacted increase in the minimum wage floor. Further evidence of a billion-dollar census was supplied by the Congressional Research Service. CRS compared cost data with the results from the pretests. According to their analysis, the actual costs for the 1980 census could run as high as \$2 billion, not only as a consequence of inflation, but more importantly, in the event the experience in the pretests proves to be an accurate indication of the performance in 1980.

#### CENSUS LEGISLATION

At the conclusion of the subcommittee's oversight hearings, the chairman introduced H.R. 8871, the Census Reform Act. The legislation would: (1) Separate the enumeration from the sample survey of socioeconomic characteristics; (2) limit the content of the short form; (3) establish formal procedures for adjudicating challenges to census data from States or local governments; (4) authorize supplemental surveys to meet the unique information needs of a State; (5) require issuance of estimates of error; and (6) create an independent Division of Evaluation to assess the quality and accuracy of the statistics published by the Bureau of the Census.

Hearings were held to consider the legislation (serial No. 95-46). On October 25, 1977, the subcommittee reported a clean bill, H.R. 9623, with amendments to the full committee. The major features of the reported bill include: (1) An emphasis on counting the population; (2) a limitation on the subjects on the short form; (3) a directive to the Secretary to issue regulations to handle census challenges; and (4) a Division of Evaluation for analyzing the validity of data published by the Bureau of the Census, and issuing estimates of error.

Full committee action is scheduled for early next year.

#### COLLECTION AND PUBLICATION OF WORLD POPULATION DATA

The Agency for International Development has for many years contracted with the Bureau of the Census for the acquisition and publication of demographic data of foreign countries. In AID's view, this information is essential for evaluating the progress of its family planning and other related assistance programs in lesser developed countries. AID recognizes, however, that a substantial number of private and educational interests are also served by the publication of this information.

The subcommittee was concerned by reports that AID was using its position as the financial agent to suppress the publication of the "World Population, 1975" report prepared by the Bureau of the Cen-

sus because the population growth rates for six of the countries contained in the report contradicted the expectations of AID officials. Memorandums furnished by AID and the Bureau confirmed the existence of a sharp disagreement on the accuracy of the figures. Hearings were held on H.R. 3950 (serial No. 95-39), a bill to transfer the authority to compile world population data to the Bureau of the Census. In their testimony, representatives from both agencies requested the subcommittee to postpone action on the bill until they had sufficient opportunity to pursue an administrative solution.

At the chairman's request, a series of informal meetings were held with the agencies following the hearings. These sessions failed to disclose any discernible progress toward a new agreement. Consequently, on July 26, 1977, the subcommittee unanimously reported, without amendments, H.R. 3950 to the full committee. The legislation is awaiting full committee action pending the outcome of negotiations between the two agencies.

In the event the two agencies are unable to come to terms for collecting and regularly publishing this vital information, the subcommittee believes the legislation should be reported by the full committee.

#### NEIGHBORHOOD STATISTICS

The subcommittee continued its hearings (serial No. 95-40) on legislation to create a neighborhood statistics program within the Bureau of the Census.

H.R. 3789 would require the Bureau of the Census to supply census data to legally recognized neighborhoods in conformity with their boundaries.

During the subcommittee markup of H.R. 9623, the Census Act of 1977, amendments were approved that would establish a neighborhood statistics program.

#### AGRICULTURAL CENSUS

The most recent survey of agriculture produced an abundance of complaints from respondents about the length and complexity of the questionnaire. Delays in processing and publishing the data were also brought to the attention of the subcommittee. A series of hearings were held during the 94th Congress on proposals to improve the survey and cut back the paperwork burden. Legislation was reported by the committee, but the House adjourned before the bill could be considered.

Two bills were introduced in the 95th Congress. An oversight hearing was held in Washington, D.C., followed by hearings in DeKalb, Ill., and Marengo, Iowa, on H.R. 681 and H.R. (serial No. 95-371).

The subcommittee reported a clean bill, H.R. 7012, on May 11, 1977. The full committee unanimously reported the legislation (H. Rept. 95-371), on May 26, 1977, to the House where it passed by a margin of 401 to 9 on July 18, 1977.

The major provisions of H.R. 7012 would require the Bureau of the Census to: (1) Reduce the paperwork burden on respondents to the agricultural census by 40 percent, (2) continue to collect information on certain small classes of farms; and (3) improve the data on the ownership structure of American farms.

No action has been taken in the Senate on the legislation.

## COORDINATION OF FEDERAL STATISTICAL PROGRAMS

The subcommittee held a series of hearings during the 94th Congress to investigate charges that there was a general lack of coordination of statistical information within the Federal Government. A staff study concluded that coordination was lacking within the Federal statistical system and urged further action on the matter.

Legislation was introduced too late in the 94th Congress for subcommittee action. Therefore, a similar bill, H.R. 681, was introduced during the 95th Congress. This bill addresses two major points. First, the bill terminates or "sunsets" all Federal statistical authority within 5 years after the legislation is enacted unless Congress reauthorizes a specific program. Only the decennial census would be exempted from this provision because of its constitutional requirements. Second, each committee of Congress would be required to issue a data impact statement along with any legislation that authorized the Federal Government to collect information from the public.

Thus the bill deals directly with the Federal reporting burden, while recognizing at the same time that the Congress is responsible for much of this paperwork burden.

The subcommittee has requested the views of the General Accounting Office, the Congressional Budget Office and the Congressional Research Service on the legislation, as well as an assessment of their capabilities to perform the responsibilities outlined in the legislation. The bill presently directs the Bureau of the Census to provide Congress with both the evaluation reports necessary to carry out the "sunset" provisions and the data impact statements required for new legislation. The subcommittee is interested in finding out whether the congressional support agencies are better suited to handle these duties.

The subcommittee has also requested the Office of Management and Budget to supply it with information on the Federal statistical system between 1972-77. The information requested includes: (1) The number of single time and repetitive surveys conducted throughout the Federal Government; (2) the number of repetitive surveys terminated; and (3) the number of repetitive and single time surveys specifically required by law.

The subcommittee has also written to many private data users to solicit their comments and suggestions on H.R. 681.

The subcommittee plans to act on the bill in early 1978.

## DATA ON FOREIGN OWNERSHIP OF PROPERTY WITHIN THE UNITED STATES

There has been great concern in recent years that sudden wealth by certain foreign countries may be used to purchase vital economic resources in the United States.

During the hearings and markup of amendments to the agricultural census, the issue was raised concerning the quality of information available to determine ownership of our Nation's property, especially by foreign persons or businesses.

Following action on the agricultural census amendments, legislation was introduced to require the Secretary of Commerce to obtain

and publish any additional data on the amount and value of agricultural land owned by foreign investors. Similar information would be compiled for institutions, corporations and incorporated associations.

The subcommittee conducted a hearing on H.R. 7411 (serial No. 95-38), during which witnesses from the Department of Treasury, Agriculture, and Commerce testified that the "Foreign Investment Study Act of 1974" already provided much of the information sought by the legislation. According to the Bureau of the Census, data on foreign and domestic corporate ownership of farmland could be obtained by correlating information from the economic and agricultural censuses. The Department representatives further noted that the "International Investment Survey Act of 1976" passed by Congress last year would enable them to continue to collect information on foreign ownership of U.S. property. The new law will also require the preparation of a study into the feasibility of setting up a national land bank system on property owned by foreign citizens. The Department of Agriculture also disclosed its preparations for the first survey ever on land ownership in the United States. As a result, the subcommittee plans no further action on the bill at this time.

#### HOLIDAYS AND CELEBRATIONS

Jurisdiction over holidays and celebrations was transferred to the Post Office and Civil Service Committee at the beginning of the 94th Congress. Because of the volume of requests for commemorations, many of which had little national appeal or significance, the subcommittee proposed and the full committee adopted a policy for consideration of such legislation. The full committee unanimously approved the identical policy for the 95th Congress.

The policy stipulates that only those proposals which receive the written endorsement of a majority of the Members of the House will be considered during the months of February, June, and October. No proposals concerning a commercial enterprise, a specific product or a fraternal, political, or sectarian organization; a particular State or any political subdivision; a living person or recurring annual commemorations will be considered.

Of the more than 302 commemorative bills introduced only two have met the criteria, were approved by the House and subsequently signed by the President: National Family Week (Public Law 95-100) and National Lupus Week (Public Law 95-72). In one instance the commemorative day policy was waived. The National Prayer Day (Public Law 95-197) resolution passed the House by unanimous consent following similar action in the Senate.