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APPROVED
DEC 26 1974

THE WHITE HOUSE

ACTION

WASHINGTON

Last Day: December 27

December 23, 1974

*Posted in
Colorado
12/26
To Archive
12/30*

MEMORANDUM FOR

THE PRESIDENT

FROM:

KEN *Cole*

SUBJECT:

Enrolled Bill H.R. 15067 - Retroactive Pay
Adjustments for Certain Federal Employees

Attached for your consideration is H.R. 15067, sponsored by Representative Wyman, which prevents a reduction in pay for any Federal employee adversely affected as a result of implementation of Executive Order No. 11777, which changed the effective date of the January 1, 1973 pay adjustment to October 1, 1972 retroactively.

OMB recommends approval and provides additional background information in its enrolled bill report (Tab A).

RECOMMENDATION

That you sign H.R. 15067 (Tab B).



APPROVED
DEC 26 1974



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

DEC 20 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 15067 - Retroactive pay
adjustments for certain Federal employees
Sponsor - Rep. Wyman (R) New Hampshire

Last Day for Action

December 27, 1974 - Friday

Purpose

Prevents a reduction in pay for any Federal employee adversely affected as a result of implementation of Executive Order No. 11777, which changed the effective date of the January 1, 1973 pay adjustment to October 1, 1972 retroactively.

Agency Recommendations

Office of Management and Budget	Approval
Civil Service Commission	Approval
Department of Defense	Approval

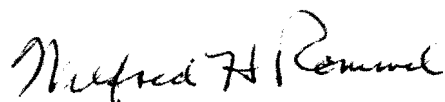
Discussion

In 1972, President Nixon deferred the scheduled October 1, 1972 salary adjustment for Federal employees until January 1, 1973. The President's action was contested in a suit brought by an employees' union, and in January 1974, the United States Court of Appeals for the District of Columbia Circuit held that the President's action in delaying the October 1, 1972 pay adjustment was not in accordance with the provisions of law. The Administration did not appeal that decision.

Accordingly, on April 12, 1974, by Executive Order No. 11777, President Nixon retroactively changed the effective date of the January 1973 pay adjustment to October 1972. As a result, nearly all Federal employees who occupied positions under one of the statutory pay systems during the three-month period in question were entitled to a retroactive payment.

In a few cases, however, because of the workings of various pay laws and regulations, some employees stand to lose money as a result of the change in effective date promulgated by Executive Order No. 11777. This is particularly true for employees who were promoted during the retroactive period, or who were converted from one pay system to another and placed in a higher step of the grade under their new system than would have been the case if the 1973 pay rates had been in effect as of October 1972. Unless remedial legislation is enacted, such employees would be required to refund the resulting excess salary payment.

To prevent such hardship, H.R. 15067 would direct that no employees lose pay by reason of Executive Order No. 11777. The Administration supported this bill during Congressional consideration, and the Civil Service Commission and Department of Defense recommend approval. The Committee reports indicate that only a few hundred employees would be affected, and the cost would therefore be small.



Assistant Director for
Legislative Reference

Enclosures

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

DEC 20 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 15067 - Retroactive pay
adjustments for certain Federal employees
Sponsor - Rep. Wyman (R) New Hampshire

Last Day for Action

December 27, 1974 - Friday

Purpose

Prevents a reduction in pay for any Federal employee adversely affected as a result of implementation of Executive Order No. 11777, which changed the effective date of the January 1, 1973 pay adjustment to October 1, 1972 retroactively.

Agency Recommendations

Office of Management and Budget

Approval

Civil Service Commission
Department of Defense

Approval
Approval

Discussion

In 1972, President Nixon deferred the scheduled October 1, 1972 salary adjustment for Federal employees until January 1, 1973. The President's action was contested in a suit brought by an employees' union, and in January 1974, the United States Court of Appeals for the District of Columbia Circuit held that the President's action in delaying the October 1, 1972 pay adjustment was not in accordance with the provisions of law. The Administration did not appeal that decision.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 805

Date: December 20, 1974

Time: 5:00 p.m.

FOR ACTION: Geoff Shepard *ok*
Max Friedersdorf *oh* cc (for information): Warren Hendriks
Phil Areeda *ok* Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 23

Time: noon

SUBJECT:

Enrolled Bill H.R. 15067 - Retroactive pay
adjustments for certain federal employees

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
delay in submitting the required material, please
telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

December 18, 1974

Honorable Roy L. Ash
Director
Office of Management and Budget

Attention: Assistant Director for
Legislative Reference

Dear Mr. Ash:

This is in response to your request for the views and recommendation of the Civil Service Commission on enrolled bill H.R. 15067, an enrolled bill "To prevent reductions in pay for any officer or employee who would be adversely affected as a result of implementing Executive Order 11777."

Executive Order 11777 retroactively changed the effective date of the January 1973 pay adjustment for the General Schedule and the other statutory pay systems to October 1972. This change in effective date was ordered by President Nixon in accordance with a decision by the United States Court of Appeals for the District of Columbia Circuit, which held that the delay of the pay adjustment from October 1972 to January 1973 was erroneous.

As a result of Executive Order 11777, almost every employee who occupied a position under one of the statutory pay systems between October 1972 and January 1973 is entitled to a retroactive payment. In a few cases, however, because of the workings of various pay laws and regulations, employees will lose money as a result of this change in effective date of the adjustment. Enrolled bill H.R. 15067 would remedy these situations.

The Civil Service Commission is in complete agreement with enrolled bill H.R. 15067, as we believe, given the circumstances of this extremely complex situation, that it would be unfair to require any employee to suffer a loss of pay as a result of this change in effective date. Therefore, we urge that the President sign enrolled bill H.R. 15067 into law.

By direction of the Commission:

Sincerely yours,

Handwritten signature of Robert Hampton in cursive script.
Chairman



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D. C. 20301

20 December 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

Reference is made to your request for the views of the Department of Defense with respect to the enrolled enactment of H. R. 15067, 93rd Congress, an Act "To prevent reductions in pay for any officer or employee who would be adversely affected as a result of implementing Executive Order 11777."

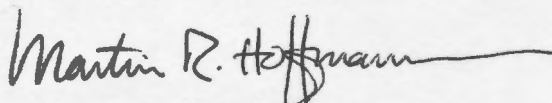
The purpose of H. R. 15067 is to offset the adverse impact of retroactive implementations of General Schedule salary adjustments from January 2, 1973, to October 1, 1972, on any personnel actions effected during that period. The initial impetus for the bill grew from a situation involving almost 300 Navy Radiation Monitors who, during October through December 1972, were converted from Federal Wage System occupational categories to General Schedule. The determination of appropriate step rate based on regulations regarding "highest previous rate" was recalculated at the time the General Schedule was retroactively adjusted. The redetermination resulted in a loss of pay for these employees since a lower step of the grade to which converted corresponded to the highest previous rate.

H. R. 15067 will not have a significant numerical impact for employees within the Department of Defense. Situations such as the mass conversion of Radiation Monitors to General Schedule categories are unusual and represent the kind of action most affected by the provisions of H. R. 15067. No other mass personnel action situation effected during the period October 1, 1972, through January 2, 1973, with similar adverse implications on employee pay has surfaced.

The objectives of H. R. 15067, viz., to preserve the pay of employees which, through subsequent and uncontrolled change of General Schedule

adjustment effective dates, is subject to reduction, are fully supported. The Department of Defense endorses the legislation passed by the Congress to achieve these objectives and recommends that the President approve H. R. 15067. The budgetary impact of this approval would be minimal.

Sincerely,

A handwritten signature in cursive script that reads "Martin R. Hoffmann". The signature is written in dark ink and includes a long horizontal flourish extending to the right.

Martin R. Hoffmann

THE WHITE HOUSE
WASHINGTON

December 21, 1974

MEMORANDUM FOR: WARREN HENDRIKS
FROM: MAX L. FRIEDERSDORF
SUBJECT: Action Memorandum - Log No. 805
Enrolled Bill H.R. 15067 - Retroactive pay
adjustments for certain federal employees

The Office of Legislative Affairs concurs in the attached proposal
and has no additional recommendations.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 805

Date: December 20, 1974

Time: 5:00 p.m.

FOR ACTION: Geoff Shepard ✓
Max Friedersdorf
Phil Areeda

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 23

Time: noon

SUBJECT:

Enrolled Bill H.R. 15067 - Retroactive pay
adjustments for certain federal employees

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

OK J. L. Amy f.w. G.C.S

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
delay in submitting the required material, please
telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

Date: December 20, 1974

Time: 5:00 p.m.

FOR ACTION: Geoff Shepard
Max Friedersdorf
Phil Areeda ✓

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 23

Time: noon

SUBJECT:

Enrolled Bill H.R. 15067 - Retroactive pay adjustments for certain federal employees

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

*to Johnston
Phil Areeda
12/23*



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

PAY ADJUSTMENTS FOR CERTAIN INDIVIDUALS ADVERSELY AFFECTED BY 1972 FEDERAL PAY COMPARABILITY ADJUSTMENT

SEPTEMBER 30, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

MR. HENDERSON, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 15067]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 15067) to prevent reductions in pay for any officer or employee who would be adversely affected as a result of implementing Executive Order 11777, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That not withstanding the provisions of any other law or any regulation issued thereunder, no officer or employee of the United States shall have his pay reduced by reason of Executive Order 11777, dated April 12, 1974, relating to the effective date of the 1972 Federal pay comparability adjustment.

Sec. 2. The Civil Service Commission shall issue regulations necessary to implement this Act.

EXPLANATION OF AMENDMENT

The language of H.R. 15067, as introduced, would apply only to employees who were converted to the General Schedule from other pay systems. In its report to the Committee, which appears later in this report, the Civil Service Commission advised that the language of the introduced bill could create further inequities by failing to cover other kinds of pay actions. Accordingly, the Commission recommended a revision in the language of the bill which revision has been adopted by the Committee.

PURPOSE

The purpose of H.R. 15067 is to correct inequities realized by certain employees of the Federal Government who have had their pay reduced as a result of the implementation of Executive Order 11777, dated April 12, 1974.

COMMITTEE ACTION

No hearings were held on this legislation, and the bill was considered directly by the full committee in the interest of providing a speedy remedy to the inequitable situations as explained in the text of this report.

H.R. 15067, as amended, was ordered reported by the full committee by a voice vote on September 19, 1974.

BACKGROUND

On August 31, 1972, President Nixon transmitted a message to the Congress (House Document 92-349) advising of his decision to delay until January 1, 1973, the pay comparability increases for Federal employees under the statutory pay systems. Those increases otherwise would have been effective on October 1, 1972, pursuant to the provisions of the Federal Pay Comparability Act of 1970. Subsequently, by Executive Order No. 11691, dated December 15, 1972, the President adjusted the pay rates of the statutory pay systems effective January 1, 1973.

The President's action in delaying the pay increases from October 1, 1972, to January 2, 1973, was challenged in the Federal courts, and on January 25, 1974, the United States Court of Appeals for the District of Columbia Circuit rendered a decision holding that the President's action was improper. Consequently, on April 12, 1974, the President issued Executive Order No. 11777 retroactively changing the effective date of the pay adjustments, which he previously had authorized under Executive Order No. 11691, from January 1, 1973, to October 1, 1972.

As a result of this change in the effective date of the pay increase, Federal agencies have been required to reconstruct the pay records of their employees for the three-month period between October 1972 and January 1973. For most employees this has resulted in the receipt of retroactive pay covering the three-month period. However, in some cases where an employee moved from one pay system to another, e.g. from a wage grade (WG) position to a General Schedule (GS) position, during the three-month retroactive period, the reconstruction of his pay record pursuant to Executive Order No. 11777 actually has resulted in a loss of pay. This is attributable to certain statutes and regulations governing the fixing of pay rates under the various pay systems. Examples of such cases, as contained in Attachment No. 2 of Civil Service Commission Bulletin No. 531-66, May 9, 1974, are set forth below

EXAMPLES OF PAY RECOMPUTATION FOR EMPLOYEES WHO CHANGED PAY SYSTEMS

1. A wage employee with an hourly rate of \$4.18 (equivalent to an annual rate of \$8,694.40) was converted with his position to grade 4 of

the General Schedule in November 1972. At that time, his pay rate of \$8,694.40 was saved under Part 539 of the Commission's regulations, since that salary exceeded step 10 of GS-4, which was then \$8,506. In January 1973, this saved rate was increased to \$9,131.40 under section 531.205(a)(3) of the Commission's regulations, and in October 1973 it was further increased to \$9,546.40.

Under the retroactive pay increase, the employee's wage rate would fall between steps 8 and 9 of GS-4 in November 1972. Therefore, the employee's pay must be retroactively adjusted to step 9, \$8,714, which would have been the employee's pay rate (assuming no other changes) until October 1973, when step 9 of GS-4 was increased \$9,118.

While this employee was underpaid during the retroactive period (\$8,640.40 vs. \$8,714), there has been an overpayment since then (\$9,131.40 vs. \$8,714 and \$9,546.40 vs. \$9,118). The employee's pay must immediately be corrected to \$9,118. Assuming the overpayment is over \$500, the agency should ask the Comptroller General to waive collection of the overpayment under 5 U.S.C. 5584.

2. A wage employee with an hourly rate of \$4.65 (equivalent to an annual rate of \$9,672.00) was demoted to a GS-5 position in December 1972, after the effective date of the amendment to 5 U.S.C. 5337 extending salary retention benefits to employees demoted from non-GS positions. The representative rate of the wage grade was \$9,672, and the equivalent General Schedule grade was GS-7, with a representative rate of \$9,959. As \$9,959, the rate for step 4 of GS-7, was the nearest rate in GS-7 which was not less than the employee's wage rate, \$9,959, became the employee's retained rate. In January 1973 this was increased to \$10,471 and in October 1973 the retained rate was increased again, to \$10,965.

Under the retroactive pay increase, GS-7 would continue to be the equivalent grade to the employee's wage grade since the new representative rate for GS-7, \$10,471, would still be the lowest GS representative rate which would not be less than \$9,672, the representative rate of the employees' wage grade. However, step 2 of GS-7, \$9,837, would now be the nearest rate in GS-7 which would not be less than the employees' wage rate. Therefore, \$9,837 becomes the employee's retained rate, and would be increased to \$10,301 in October 1973.

The employee's retained rate must be immediately corrected to GS-7, step 2, \$10,301. The employee has been overpaid (\$9,959 and \$10,471 vs. \$9,837 and \$10,965 vs. \$10,301). Assuming the net overpayment is more than \$500, the agency should ask the Comptroller General to waive collection of the overpayment under 5 U.S.C. 5584.

3. A wage employee with an hourly rate of \$4.18 (equivalent to an annual rate of \$8,694.40) was promoted to a GS-5 position during the retroactive period. His pay was fixed under the highest previous rule (section 531.203(c) of the Commission's regulations). The agency's regulations require that an employee's pay in such a situation be fixed at the lowest rate in the GS grade which is not less than the employee's wage rate. Therefore, the employee's pay was fixed at step 7 of GS-5, \$8,783. In January 1973 this rate was increased to \$9,236 and in October 1973 it was further increased to \$9,663.

Under the retroactive pay increase, step 5 of GS-5, \$8,722, becomes the lowest rate in GS-5 which would not have been less than the wage rate. The employee's pay must be retroactively adjusted to step 5,

\$8,722, which would have been the employee's pay rate (assuming no other changes) until October 1973, when step 5 of GS-5 was increased to \$9,127.

This employee has been overpaid (\$8,783 and \$9,236 vs. \$8,722 and \$9,663 vs. \$9,127). Assuming the net overpayment is more than \$500, the agency should ask the Comptroller General to waive collection of the overpayment under 5 U.S.C. 5584.

4. In November 1972 a GS-4, step 6, employee with an annual salary of \$7,634 (equivalent to \$3.67 per hour) moved to a WG-5 position with step rates of \$3.48, \$3.63, and \$3.78 per hour. Because the representative rate of GS-4 (\$7,198 per annum or \$3.46 per hour) was less than the representative rate of WG-5 (\$3.63 per hour), the action was properly determined to be a promotion under FPM Supplement 532-1, S8-2a(7). In accordance with the promotion rules in S8-3d, the employee was entitled to the lowest scheduled rate of the WG-5 which exceeded his existing rate (\$3.67 per hour) by no less than one step rate increment (GS-4, step 7 at \$7,852 per annum or \$3.78 per hour) of the grade from which promoted. The employee's rate of pay was set at \$3.78 per hour, the then current rate for WG-5, step 3. In December 1972, this rate was adjusted to \$3.98 per hour as a result of a wage schedule increase. In December 1973, another schedule increase increased this rate to \$4.18.

Under the retroactive pay increase, the employee's GS-4, step 6, hourly rate is changed to \$3.86. Since this rate exceeds the \$3.78 per hour maximum scheduled rate of the WG-5 position, the employee is entitled to the pay retention benefits of FPM Supplement 532-1, Subchapter S9, assuming that all eligibility requirements are met. Because WG-6 with step rates of \$3.69, \$3.84, and \$3.99 becomes the equivalent wage grade to GS-4, and since step 3 of the WG-6, at \$3.99 per hour, is the nearest rate which equals or exceeds his existing rate of \$3.86, the employee is entitled to a retained rate of \$3.99 per hour for the 2-year pay retention period, unless terminated earlier by one of the conditions specified in Subchapter S9. In December 1972, when the maximum scheduled rate of the WG-6 was increased from \$3.99 per hour to \$4.21 per hour, the employee's retained rate would be adjusted to \$4.21 per hour. In December 1973, another schedule increase would raise the retained rate to \$4.43 per hour.

This employee has been underpaid since he moved to the wage position (\$3.78 per hour vs. \$3.99 per hour, \$3.98 per hour vs. \$4.21 per hour, and \$4.18 per hour vs. \$4.43 per hour). Beginning the first applicable pay period after April 30, 1973, the employee may also have been eligible for advancement to the new 4th wage step (see FPM Letter 532-51, dated April 30, 1973). The employee's pay must be immediately corrected to reflect these pay adjustments.

STATEMENT

It is the view of this Committee and the Administration that, in light of the unusual and complex circumstances surrounding the October 1972 pay increase, it would be extremely unfair to require any employee to suffer a reduction in pay, as illustrated in the examples set forth above, as a result of the retroactive change in the effective date of the pay increase. To eliminate such inequities H.R. 15067 pro-

vides that no officer or employee of the United States shall have his pay reduced as a result of the implementation of Executive Order No. 11777.

With respect to an employee who has had his pay reduced as a result of Executive Order No. 11777, the effect of this legislation will be to require that such employee's pay be adjusted, retroactive to the date he changed pay systems, to that step or rate at which his pay originally was fixed when he became subject to the new pay system. This adjusted rate of pay will form the basis for any subsequent pay adjustments, such as step increases, promotions, etc., affecting the employee since the date of his change in pay systems.

If an employee's administrative office has not yet completed the action necessary to reduce his pay as a result of Executive Order No. 11777, the effect of this legislation will be to prevent any such reduction in pay as is illustrated in the examples set forth above or in any similar situations.

COST

At this time it is not possible to provide a reliable estimate of the additional cost to the Government that would result from the enactment of this legislation. However, the Committee has been advised that, at most, only a few hundred employees would be affected by this legislation and, therefore, any additional cost to the Government would be minimal.

AGENCY REPORTS

The reports of the Civil Service Commission and the Office of Management and Budget, in support of H.R. 15067, as amended by the Committee, and the report of the Comptroller General of the United States are set forth below.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., August 6, 1974.

HON. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in further response to your request for the Commission's views on H.R. 15067, a bill "To prevent reductions in pay for any officer or employee who would be adversely affected as a result of implementing Executive Order 11777."

The Civil Service Commission supports the purposes of this bill. Executive Order 11777 retroactively changed the effective date of the January 1973 pay adjustment for the General Schedule and the other statutory pay systems to October 1972. This change in effective date was ordered by the President in accordance with a decision by the United States Court of Appeals for the District of Columbia Circuit, which held that the delay of the pay adjustment from October 1972 to January 1973 was erroneous.

As a result of Executive Order 11777, almost every employee who occupied a position under one of the statutory pay systems between October 1972 and January 1973 is entitled to a retroactive payment. In a few cases, however, because of the workings of various pay laws and regulations, employees will lose money as a result of this change

in effective date of the pay adjustment. (Examples of such cases are shown in Attachment No. 2 of Civil Service Commission Bulletin No. 531-66, May 9, 1974, a copy of which is enclosed.) H.R. 15067 would remedy at least some of these situations.

We are in complete agreement with the intent of H.R. 15067, as we believe, given the circumstances of this extremely complex situation, that it would be unfair to require any employee to suffer a loss of pay as a result of this change in effective date. However, we find that H.R. 15067 could lead to further inequities by failing to cover all appropriate situations.

The bill, as drafted, would apply only to an employee who was converted to the General Schedule from another pay system. It is possible that Executive Order 11777 would have the direct effect of reducing salaries in other kinds of pay actions. Accordingly, to insure that all such cases are included, we recommend the following revision:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of any other law or any regulation issued thereunder, no officer or employee of the United States shall have his pay reduced by reason of Executive Order Number 11777.

Sec. 2. The Civil Service Commission shall issue any regulations necessary to implement this Act.

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

By direction of the Commission:

Sincerely yours,

JAYNE B. SPAIN, *Acting Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., August 6, 1974.

HON. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Office on H.R. 15067, "To prevent reductions in pay for any officer or employee who would be adversely affected as a result of implementing Executive Order 11777."

The purpose of this bill is to prevent loss of pay, as a result of Executive Order No. 11777, by employees who were converted to the General Schedule from another pay system. In its report, the Civil Service Commission states its reasons for supporting the intent of the bill, and recommends substitute language which would prevent pay reductions in all cases where employees would be adversely affected by the Order.

We concur in the views expressed by the Civil Service Commission and, accordingly, recommend enactment of H.R. 15067, provided it is amended as suggested by the Commission.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., July 11, 1974.

HON. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service, House of Representatives

DEAR MR. CHAIRMAN: Your letter of June 10, 1974, requested our report on H.R. 15067, 93d Congress, a bill to prevent reductions in pay for any officer or employee who would be adversely affected as a result of implementing Executive Order 11777, April 12, 1974.

Executive Order 11777 amended Executive Order 11691, December 15, 1972, to provide that the pay raises granted by Executive Order 11691 are to be effective as of the first day of the first applicable pay period beginning on or after October 1, 1972, rather than the first day of the first applicable pay period on or after January 1, 1973. In implementing Executive Order 11777 it has been necessary for agencies to reconstruct employees' pay records for the 3-month period between October 1972 and January 1973. For most employees this has resulted in retroactive pay for that period. However, in circumstances where an employee changed pay systems during the retroactive period and had his pay set under the highest previous rate rule (5 CFR 531.203 (c), which generally permits an agency to pay an employee who is re-employed, transferred, reassigned, promoted or denoted at any rate of his grade which does not exceed his highest previous rate), reconstruction of his pay record at this time would result in his rate of pay being reduced below the rate originally determined in 1972. This is so because generally a lower step in the employee's grade would now be the minimum rate which does not exceed his highest previous rate.

House bill 15067 would prevent such reductions by requiring that an employee who received a previously earned rate above the minimum rate of his grade would have his rate of basic pay adjusted retroactively on the basis of the rate and step at which he originally became subject to the General Schedule.

Under the circumstances we offer no objection to the enactment of H.R. 15067.

Sincerely yours,

ROBERT F. KELLER,
Deputy Comptroller General of the United States.

○

Calendar No. 1266

93D CONGRESS }
2d Session }

SENATE }

REPORT
No. 93-1339

PAY ADJUSTMENTS FOR CERTAIN INDIVIDUALS ADVERSELY AFFECTED BY 1972 FEDERAL PAY COMPARABILITY ADJUSTMENT

DECEMBER 12, 1974.—Ordered to be printed

Mr. McGEE, from the Committee on Post Office and Civil Service,
submitted the following

REPORT

[To accompany H.R. 15067]

The Committee on Post Office and Civil Service, to which was referred the bill (H.R. 15067) to prevent reductions in pay for any officer or employee who would be adversely affected as a result of implementing Executive Order 11777, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

The purpose of H.R. 15067 is to correct an unfair situation applicable to some Federal employees whose rates of pay have been reduced because of unusual circumstances involving implementation of Executive Order 11777 of April 12, 1974.

STATEMENT

This bill stems from the August 31, 1972 message to the Congress from President Nixon in which he announced his decision to delay for three months the October, 1972, pay adjustment due under the Federal Pay Comparability Act of 1970.

Rates of pay under the statutory pay systems were thereby adjusted in January, 1973, but the delay was successfully challenged in the Federal Courts. Following a January 25, 1974, decision by the United States Court of Appeals for the District of Columbia which held the delay to be erroneous, the President issued Executive Order 11777 on April 12, 1974, fixing the effective date of the pay adjustment at October 1, 1972, and providing for payment of salaries due for the three month period to employees and former employees.

In a few instances, where an employee transferred from one pay system to another during the period between October 1, 1972, and January 1, 1973, the reconstruction of pay pursuant to the Executive Order has resulted in a net loss rather than an increase in pay.

The Committee believes, as does the Administration, that no employee should suffer a reduction in salary as a result of these unusual circumstances. The bill would rectify such instances. Its effect would be to have an employee's pay adjusted to the step and grade at which his pay was fixed when the transfer from one pay system to another was made, retroactive to the date of the personnel action. This adjusted rate of pay would also be the base for any subsequent pay actions affecting him.

COMMITTEE ACTION

No hearings were held on the bill, which was considered by the Full Committee and ordered reported on December 12, 1974.

COST

While time has not permitted the thorough review of personnel actions necessary to provide a reliable estimate of the total cost involved in implementing H.R. 15067, the Civil Service Commission has estimated that only a few hundred employees would be covered by the bill. The cost, therefore, would be small.

AGENCY REPORTS

The reports of the Civil Service Commission and Comptroller General follow (the examples of cases covered by the bill referred to in the Commission's views appear in House Report No. 93-1384):

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., November 4, 1974.

HON. GALE W. MCGEE,
Chairman, Committee on Post Office and Civil Service, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in further response to your request for the Commission's views on H.R. 15067, a bill "To prevent reductions in pay for any officer or employee who would be adversely affected as a result of implementing Executive Order 11777."

Executive Order 11777 retroactively changed the effective date of the January 1973 pay adjustment for the General Schedule and the other statutory pay systems to October 1972. This change in effective date was ordered by President Nixon in accordance with a decision by the United States Court of Appeals for the District of Columbia Circuit, which held that the delay of the pay adjustment from October 1972 to January 1973 was erroneous.

As a result of Executive Order 11777, almost every employee who occupied a position under one of the statutory pay systems between October 1972 and January 1973 is entitled to a retroactive payment. In a few cases, however, because of the workings of various pay laws and regulations, employees will lose money as a result of this change in

effective date of the pay adjustment. (Examples of such cases are shown in Attachment No. 2 of Civil Service Commission Bulletin No. 531-66, May 9, 1974, a copy of which is enclosed.) H.R. 15067 would remedy these situations.

The Civil Service Commission is in complete agreement with H.R. 15067, as we believe, given the circumstances of this extremely complex situation, that it would be unfair to require any employee to suffer a loss of pay as a result of this change in effective date. Therefore, we urge that your committee give this bill favorable consideration.

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

By direction of the Commission.

Sincerely yours,

L. J. ANDOLSEK,
Acting Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., November 14, 1974.

HON. GALE MCGEE,
Chairman, Committee on Post Office and Civil Service,
U.S. Senate

DEAR MR. CHAIRMAN: Your letter of October 21, 1974, requested our report on H.R. 15067, 93d Congress, 2d Session, an act to prevent reductions in pay for any officer or employee who would be adversely affected as a result of implementing Executive Order 11777, April 12, 1974.

The purpose of H.R. 15067 is the same as that of S. 3892, 93d Congress, 2d Session, which was the subject of our report to you dated October 18, 1974, B-167266. However, H.R. 15067 would prevent a reduction in pay resulting from Executive Order 11777 for any officer or employee of the United States, whereas S. 3892 would prevent such reductions only for those officers and employees who became subject to the General Schedule during the retroactive period. In our report of October 18, 1974, we stated that we had no objection to the purpose of S. 3892, but we believed that it would be inequitable to not prevent reductions for all employees who would have their pay reduced as a result of Executive Order 11777. Accordingly, we recommended that S. 3892 be revised along the lines suggested by the Civil Service Commission in its report to you on that bill.

Since the provisions of H.R. 15067 are similar to those suggested by the Commission, we have no objection to favorable consideration of that act.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General of the United States.

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Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To prevent reductions in pay for any officer or employee who would be adversely affected as a result of implementing Executive Order 11777.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of any other law or any regulation issued thereunder, no officer or employee of the United States shall have his pay reduced by reason of Executive Order 11777, dated April 12, 1974, relating to the effective date of the 1972 Federal pay comparability adjustment.

SEC. 2. The Civil Service Commission shall issue regulations necessary to implement this Act.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

December 16, 1974

Dear Mr. Director:

The following bills were received at the White House on December 16th:

✓ S.J. Res. 263	✓ H.R. 1479
✓ H.R. 1355	✓ H.R. 15067
✓ H.R. 5056	✓ H.R. 15818
✓ H.R. 7072	✓ H.R. 16006
✓ H.R. 7077	✓ H.R. 16228
✓ H.R. 11013	

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.