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APPROVED
OCT 2 - 1976

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THE WHITE HOUSE
WASHINGTON
October 2, 1976

ACTION
Last Day: October 9

Posted
10/4/76
archive
10/4/76

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *JDC*
SUBJECT: H.R. 11722 - Deprivation of
Employment on Account of Political
Contribution

Attached for your consideration is H.R. 11722, sponsored by Representative Roush and eighteen others.

The enrolled bill prohibits denial of State and local government employment in Federally-supported programs for refusal to make a political contribution and expands the current prohibition against racial and political discrimination in Federally-funded work relief programs to cover discrimination based on sex, religion or national origin.

A discussion of the provisions of the bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Kilberg) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 11722 at Tab B.





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

OCT 1 1976

MEMORANDUM FOR THE PRESIDENT

Subject: H.R. 11722 - Deprivation of Employment on
Account of Political Contribution
Sponsor - Rep. Roush (D) Indiana and 18 others

Last Day for Action

October 9, 1976 - Saturday

Purpose

Prohibits denial of State and local government employment in Federally-supported programs for refusal to make a political contribution; and expands the current prohibition against racial and political discrimination in Federally-funded work relief programs to cover discrimination based on sex, religion, or national origin.

Agency Recommendations

Office of Management and Budget	Approval
Department of Justice	Approval
Civil Service Commission	Approval
Department of Health, Education, and Welfare	No objection
Advisory Commission on Inter- governmental Relations	No comment
Civil Rights Commission	No recommendation

Discussion

This legislation would ban the practice, still prevalent in some State and local governments, under which employees in, and persons entitled to benefits from, a Federally-supported program are threatened with loss of employment or of a benefit, respectively, if they do not make a contribution to the political party in power. The report of the House Judiciary Committee uses the State of

Indiana as an example of this practice and states, "The evidence received by the Subcommittee on Criminal Justice indicated that in Indiana the employees are expected to contribute 2 percent of their gross salary, giving rise to what is popularly known as the 'Two Percent Club.'"

In its attached views letter, the Civil Service Commission (CSC) advises that it has sought unsuccessfully to prevent such practices through the Hatch Act, which is applicable to situations in which both the requesting supervisor and the employee are employed in connection with a Federally-financed activity and where there is an indication of political coercion. According to CSC, States promptly circumvented the Hatch Act "by the simple expedient of making sure that the person who dunned employees of Federally-funded programs was not himself employed in connection with such a program."

There are presently two sections in the Federal Criminal Code directed at protecting Federally-funded employment and relief programs from partisan favoritism. One, 18 U.S.C. 600, makes it a misdemeanor to promise future employment or other benefits on account of a person's political activity. The other, 18 U.S.C. 601, which would be amended by the enrolled bill, makes it a misdemeanor to deny continued employment or other benefits on such a basis, but only in programs "provided for or made possible by an Act of Congress appropriating funds for work relief or relief purposes." Therefore, current statute does not penalize extorting political contributions from employees of State or local governments and from other persons entitled to benefits from a Federal program, except in Federal relief programs.

H.R. 11722 would expand the scope of 18 U.S.C. 601 to apply in any Federally-funded program. As expanded, Section 601 would make it unlawful to force or attempt to force any person to make a contribution of value, including services, for the benefit of any candidate or political party by threatening loss of, or denial of employment in any Federal, State, or local government agency or program which involves the use of Federal funds. Denying an individual full entitlement to a benefit under a Federally-funded relief program for failure to make a political contribution would also be prohibited.

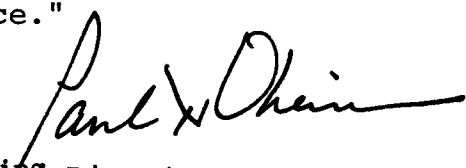
Violation of either 18 U.S.C. 600 or 601, as amended, would continue to be a misdemeanor, punishable by a maximum one-year imprisonment, but the enrolled bill would increase the current maximum fine from \$1,000 to \$10,000 in both sections.

Finally, H.R. 11722 would also re-enact, as a new section in the Civil Rights chapter of Title 18, that portion of present 18 U.S.C. 601 regarding denial of employment in Federally-funded relief programs on account of race, creed, color, and political affiliation. The bill would add new forms of discrimination, i.e., "sex, religion, or national origin." Violation of this new section would also be a misdemeanor offense, punishable by a maximum fine of \$10,000 or imprisonment for one year, or both.

This new section would not contain language, now in 18 U.S.C. 601, which qualifies the broad proscription against the various forms of discrimination in Federally-supported relief programs by excepting, in effect, those programs targeted at certain minority groups. The Civil Rights Commission expresses its concern, in its attached views letter, that the bill's deletion of this language might interfere with the operation of work relief programs specially targeted at minority-group persons and women who have suffered prior economic discrimination. Although we are also uncertain as to the potential effect of this change, we do not believe that it was Congress' intent to invalidate its earlier actions with regard to certain minorities, principally because the legislative history is silent on this point.

* * * * *

The Department of Justice, in its attached views letter, states that the "main reason for supporting this legislation is our belief that the United States has an obligation to insure that none of the jobs and benefits which are funded in whole or in part by federal appropriations is the subject of discrimination on the basis of whether the victim makes a political contribution. An additional justification for a federal proscription in this area is the fact that when abuses of this nature arise, they are frequently locally sanctioned, either in law or custom, so that federal intervention is often the only means of halting the extortionate practice."


Acting Director

Enclosures



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

CHAIRMAN

September 27, 1976

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for our views on H.R. 11722, an act "To amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes."

We have no objection to this bill, but would defer to the views of the Department of Justice since title 18 of the United States Code is within the ambit of that agency's responsibility.

This Commission has noted with concern the existence of "kickback" or "Two Per Cent Clubs" in various States through the years. We have attempted to reach such situations by means of the Hatch Act (5 U.S.C. 1501, et seq.) without success. Such attempts were frustrated by virtue of the Hatch Act's applicability only where both the requester and the giver are employed in connection with a Federally financed activity. State organizations were prompt to circumvent this provision by the simple expedient of making sure that the person who dunned employees of Federally funded programs was not himself employed in connection with such a program. In such circumstances no violation of the Hatch Act occurred, and the Two Per Cent Club could operate with impunity.

This bill, however, is not similarly restricted in its applicability, since jurisdiction under section 601 of title 18, United States Code, would devolve from employment, payment or benefit, "made possible in whole or in part by an Act of Congress", and would reach any person who seeks a political contribution by means of denial or deprivation, or threat thereof, of such employment, payment or benefit. Further, this bill would reach such situations in a Federal agency as well as in State or local

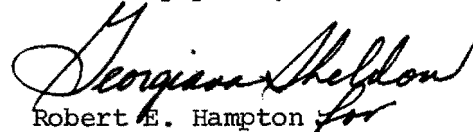
agencies. The change of the maximum fine from \$1,000 to \$10,000 seems entirely appropriate as does the similar modification of section 600 of title 18, United States Code, which is provided for in section 3 of the bill.

Further, the addition of the categories of sex and national origin to section 246 of title 18, United States Code, and the change of the maximum fine to \$10,000, seem equally appropriate.

In summary, we feel that this bill may have salutary effects in the century-long attempt to rid this nation of the remnants of the "spoils system". The Civil Service Commission strongly favors any law which may have such an effect, and recommends that the President sign the enrolled bill, H.R. 11722, provided the Department of Justice interposes no objections.

By direction of the Commission:

Sincerely yours,


Robert E. Hampton for
Chairman

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D. C. 20425



STAFF DIRECTOR

SEP 30 1976

Mr. James M. Frey
Assistant Director
for Legislative Reference
Office of Management and Budget
7201 New Executive Office Bldg.
Washington, D.C.

Dear Mr. Frey:

This is to respond to your request of September 28, 1976 for the views and comments of the U.S. Commission on Civil Rights on enrolled bill H.R. 11722 which amends Title 18 of the United States Code. The Commission is not able to formulate definitive comments on the enrolled bill in a one-day period. Nevertheless, I would like to share with you a concern about one aspect of the enrolled bill.

H.R. 11722 alters Title 18 in two respects. First, the bill generally establishes that the "deprivation of employment or other benefit for political contribution" is a Federal criminal offense. This substantive addition to the U.S. Code is effectuated by amendment of the existing Section 601 of Title 18. Although the establishment of a new criminal offense for the "deprivation of employment or other benefit for political contribution" does not relate to the substantive jurisdiction of the Commission on Civil Rights, I feel that it would minimize the potential for political corruption.

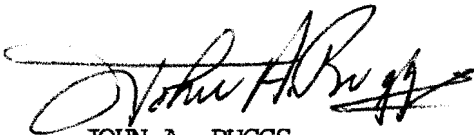
H.R. 11722 alters Title 18 in a second respect. The bill generally reestablishes the existing Section 601 of Title 18 as a new Section 246. The alterations of the existing Section 601 reflected in the proposed new Section 246 are indicated below (deletions from the existing Section 601 noted by underlining; additions to the existing Section 601 noted by brackets).

Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible [in whole or in part] by any Act of Congress appropriating funds for work relief or relief purposes, on account of [political affiliation,] race, creed, color, [sex, religion, or national origin,] or any political activity, support of, or opposition to any candidate or any political party in any election, shall be fined not more than \$1,000 [~~\$10,000~~], or imprisoned not more than one year, or both.

In my view, the Commission would have no problem endorsing expansion of the statute to cover discrimination based on sex or national origin. I am troubled, however, by the potential effect of the deletion of the phrase "except as required by law". Specifically, I am concerned that this deletion might interfere with the operation of work relief programs which contain targeting mechanisms to provide assistance to minority-group persons and women who have suffered prior economic discrimination.

Thank you for the opportunity to comment on enrolled bill H.R. 11722. If you have any questions, please contact Jim Lyons at 254-6626.

Sincerely,

A handwritten signature in cursive script, appearing to read "John A. Buggs". The signature is written in dark ink and is positioned above the typed name and title.

JOHN A. BUGGS
Staff Director

Department of Justice
Washington, D.C. 20530

September 27, 1976

Honorable James T. Lynn
Director, Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

Pursuant to your request, I have examined a facsimile of the bill H.R. 11722 "To amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes."

The basic problem which this proposal addresses is the practice, prevalent in some States and localities across the country (most notably Indiana), whereby employees of State or local governments, and persons entitled to benefits from a federal program, are threatened with the loss of employment or of a benefit, if they do not make a contribution of a thing of value to the political party in power. Under current federal law, no statute penalizes such extortionate conduct except 18 U.S.C. 601, which is confined in scope to deprivations, on account of political activity, of employment or other benefits "provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes." H.R. 11722 is designed to remedy the lack of an effective penal sanction in this area, principally by amending 18 U.S.C. 601 to remove its limitation to programs for work relief purposes.

Under the bill, 18 U.S.C. 601 will punish (at a one-year misdemeanor level as under current law) whoever knowingly causes or attempts to cause any person to make a contribution of a thing of value, including services, for the benefit of any candidate or political party, by means of the deprivation, (1) of any employment, position, or work in or for any agency of the United States or a State or political subdivision thereof, or any compensation or benefit of such employment, position or work, or (2) any payment or benefit of a program of the United States or a State or political subdivision thereof. The statute applies if the "employment, position, work, compensation, payment or benefit is provided for or made possible in whole or in part by an Act of Congress."

In addition, H.R. 11722 reenacts the latter part of present 18 U.S.C. 601, dealing with deprivations of work relief benefits on account of race, creed, and color, so as to add as prohibited

forms of discrimination, "sex, religion, or national origin." This offense is moved to chapter 13 of title 18 (civil rights) as new section 246. Finally, the bill increases the maximum fine applicable to 18 U.S.C. 601 and its sister statute 18 U.S.C. 600 (punishing certain promises of employment or other benefit for political activity) from \$1,000 to \$10,000.

The Department of Justice testified in favor of a predecessor proposal to this bill (H.R. 2920) in October 1975 and filed a favorable report on H.R. 11722 in June of this year with the Senate Judiciary Committee. As we noted in that report, our main reason for supporting this legislation is our belief that the United States has an obligation to insure that none of the jobs and benefits which are funded in whole or in part by federal appropriations is the subject of discrimination on the basis of whether the victim makes a political contribution. An additional justification for a federal proscription in this area is the fact that when abuses of this nature arise, they are frequently locally sanctioned, either in law or custom, so that federal intervention is often the only means of halting the extortionate practice.

Accordingly, the Department of Justice recommends Executive approval of this bill.

Sincerely,



Michael M. Uhlmann
Assistant Attorney General

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 1

Time: 400pm

FOR ACTION: Dick Parsons *ms* cc (for information): Jack Mahsh
 Bobbie Kilberg *ms* Jim Connor
 Max Friedersdorf *ms* Ed Schmults
 Steve McConahey *ms*
 Jeanne Holm *ms*

FROM THE STAFF SECRETARY

DUE: Date: October 2 Time: noon

SUBJECT:

H.R. 11722-Deprivation of Employment on Account of
 Political Contribution

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> 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



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

SEP 28 1976

Dear Mr. Lynn:

This is in response to your request for a report on H.R. 11722, an enrolled bill "To amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes."

In short, we support the objectives of the bill, but defer to the Department of Justice regarding the specific language in the bill and the appropriateness of increasing the penalties for certain violations covered by the bill.

Currently, section 600 of title 18 of the United States Code limits to \$1,000 the fine that may be levied against persons who offer employment or other benefits provided under Federal law to any individual on the basis of political activity. Section 601 of title 18 sets the same maximum fine for denying employment or other benefits in welfare programs on the basis of race, creed, color, or political considerations.

Among other things, the enrolled bill would modify section 601 of title 18 to parallel more closely section 600 of that title. First, it would limit the prohibition contained in section 601 to discrimination based upon political considerations. The other forms of discrimination now prohibited by section 601 (race, creed, and color) would be prohibited by a new section 246, which the enrolled bill would add to title 18 of the Code and which is discussed below. Secondly, the revised section 601 would prohibit the denial of employment or other benefits under any federally assisted program on the basis of political considerations, thus eliminating the restriction to "relief" programs currently contained in section 601.

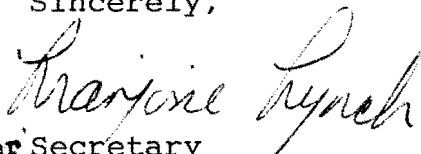
We agree that the inexplicable limitation of section 601 to relief programs should be eliminated. This Department administers many programs for the benefit of any individual who needs them and who meets the relevant program criteria. The prohibitions contained in section 601 should apply to all such programs, not merely those which are for the limited purpose of relief.

The enrolled bill would also add a new section 246 to title 18 of the United States Code. That section would, essentially, codify in chapter 13 of title 18 of the United States Code (pertaining to civil rights) those forms of discrimination now prohibited by section 601 but which would be deleted from that section by the enrolled bill. The proposed section 246 would expand the prohibited forms of discrimination (currently limited to race, color, religion, and political activity) to cover discrimination based upon sex or national origin. We favor expanding the acts now prohibited to cover discrimination based upon sex or national origin, and have no objection to the recodification of the provision in chapter 13. However, we are confused that the Congress has retained, for purposes of the proposed section 246, the language of the current section 601 which limits the applicability of the section to relief programs, while at the same time deleting this restriction for purposes of the amended section 601. Nevertheless, because this restriction does not result in any change from current law, we have no objection to the proposed section 246.

Lastly, the enrolled bill makes several changes in the terminology used to describe political activities for purposes of section 601, and increases the monetary penalty for the acts prohibited by sections 600, 601, and 246 from \$1,000 to \$10,000. We defer to the Department of Justice on the adequacy of the revised terminology in section 601 and on the appropriate monetary penalty for violations of the amended provisions of law.

We therefore have no objection to enactment of the enrolled bill.

Sincerely,


Under Secretary



ADVISORY
COMMISSION ON INTERGOVERNMENTAL RELATIONS
WASHINGTON, D.C. 20575

September 24, 1976

Mr. James M. Frey
Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

This is in response to your request for the views of the ACIR on enrolled bill H.R. 11722, "An Act to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes." The Commission has not studied the subject matter of this bill and therefore has no comment.

Thank you for the opportunity to review and comment on this legislation.

Sincerely yours,

David B. Walker
Assistant Director

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 1

Time: 400pm

FOR ACTION: Dick Parsons
Bobbie Kilberg
Max Friedersdorf
Steve McConahey
Jeanne Holm

cc (for information): Jack Marsh
Jim Connor
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: October 2

Time: noon

SUBJECT:

H.R. 11722-Deprivation of Employment on Account of
Political Contribution

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

approve Kilberg 10/1/76

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

James M. Cannon
for the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

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Date: October 1

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FROM THE STAFF SECRETARY

DUE: Date: October 2

Time: noon

SUBJECT:

H.R. 11722-Deprivation of Employment on Account of
Political Contribution

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

Recommend signature.

Jeanne M. Holm
Jeanne M. Holm
October 1, 1976

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James M. Cannon
for the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 1

Time: 400pm

FOR ACTION: Dick Parsons cc (for information): Jack Marsh
 Bobbie Kilberg Jim Connor
 Max Friedersdorf *OR RKW* Ed Schmults
 Steve McConahey
 Jeanne Holm

FROM THE STAFF SECRETARY

DUE: Date: October 2

Time: noon

SUBJECT:

H.R. 11722-Deprivation of Employment on Account of
Political Contribution

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

please return to judy johnston, ground floor west wing

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James M. Cannon
--- the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

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Date: October 1

Time: 400pm

FOR ACTION: Dick Parsons
Bobbie Kilberg
Max Friedersdorf
Steve McConahey
Jeanne Holm

cc (for information): Jack Marsh
Jim Connor
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date:

October 2

Time:

noon

SUBJECT:

H.R. 11722-Deprivation of Employment on Account of
Political Contribution

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Approval. RD

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.

James M. Cannon
for the President



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

OCT 1 1976

MEMORANDUM FOR THE PRESIDENT

Subject: H.R. 11722 - Deprivation of Employment on
Account of Political Contribution
Sponsor - Rep. Roush (D) Indiana and 18 others

Last Day for Action

October 9, 1976 - Saturday

Purpose

Prohibits denial of State and local government employment in Federally-supported programs for refusal to make a political contribution; and expands the current prohibition against racial and political discrimination in Federally-funded work relief programs to cover discrimination based on sex, religion, or national origin.

Agency Recommendations

Office of Management and Budget	Approval
Department of Justice	Approval
Civil Service Commission	Approval
Department of Health, Education, and Welfare	No objection
Advisory Commission on Inter- governmental Relations	No comment
Civil Rights Commission	No recommendation

Discussion

This legislation would ban the practice, still prevalent in some State and local governments, under which employees in, and persons entitled to benefits from, a Federally-supported program are threatened with loss of employment or of a benefit, respectively, if they do not make a contribution to the political party in power. The report of the House Judiciary Committee uses the State of

DEPRIVATION OF EMPLOYMENT ON ACCOUNT OF POLITICAL CONTRIBUTION

MARCH 30, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HUNGATE, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 11722]

The Committee on the Judiciary, to whom was referred the bill (H.R. 11722) to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, line 5, strike out "or" the second place it appears.

Page 2, line 10, insert "or" immediately after the semicolon.

Page 2, immediately after line 10, insert the following:

"(3) whether or not such person is such an employee, of any payment under or benefit of a program of the United States, a State, or a political subdivision of a State;

Page 2, beginning in line 11, strike out "or benefit", and insert in lieu thereof "benefit, or payment".

Page 2, line 13, strike out "making or".

Page 2, line 14, strike out "failing" and insert in lieu thereof "refusing".

Page 4, line 13, insert "political affiliation," immediately before "race".

PURPOSE

The purpose of this legislation is to amend title 18 of the United States Code to prohibit deprivation of employment or other benefit, on account of refusing to make a political contribution, where the employment or benefit is made possible in whole or part by Act of Congress.

BACKGROUND

From time to time, and for a number of years, both major political parties have utilized the "lug," a method of obtaining funds for the political party in power. Certain public officers are told that they are

expected to contribute a part of their salaries to the party.¹ If they refuse to do so, they are threatened with dismissal. This is an example of such a threat, a letter sent to certain employees in Indiana.²

When you hired into the State Employment you were informed then that each and every paycheck you received, two (2) percent was due and payable to the Party.

Now, I did not make this rule, but I have been charged with collecting this two (2) percent and turning it in.

It is not fair for your fellow workmen to pay his share and you letting it go this way. [*sic*] I am warning you to "shape up or ship out." This must be paid in full by March 11, 1974 or I will be in the process of making out 104's which means letting you go.

Sincerely,

Superintendent.

If the threats fail, the employee may actually be fired.

The employees who are subjected to threats of this sort are not just those who are located at the top of the salary ladder.³ The majority of employees victimized are people of modest incomes, such as persons working construction on highway and even lifeguards.⁴ The Committee is of the opinion that this practice has no place in a republican form of government. Where the people govern themselves, they should not be expected to pay tribute in order to work for themselves.

There are presently two statutes directed at protecting federally-funded employment and programs from partisan favoritism. One is section 600 of title 18, which makes it a crime to *promise* employment or other benefit, made possible in whole or in part by an Act of Congress, on account of a person's political activity.

The other statute is section 601. It provides:

Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible by any Act of Congress appropriating funds for *work relief or relief purposes*, on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. [*emphasis added*]

The "work relief and relief purposes" limitation makes section 601 much narrower than section 600. Thus, for example, if A promises B a job on a Federally-funded highway construction program if B will make a contribution to A's party, the Justice Department can prosecute A under section 600. But, if A goes to C, who is already

¹ The evidence received by the Subcommittee on Criminal Justice indicated that in Indiana the employees are expected to contribute 2 percent of their gross salary, giving rise to what is popularly known as the "Two Percent Club." See statement of Representative J. Edward Roush in Hearing on Legislation Relating to Deprivation of Employment on Account of Political Contribution Before the Subcommittee on Criminal Justice of the House Committee on the Judiciary, 94th Cong., 1st sess., Serial No. 24, at 9 [hereinafter cited as "Hearing"].

In some areas of Indiana, the local party organization may collect a 1 percent lug in addition to the State party's 2 percent. See Hearing at 33, 73-74 (letter of Murrel Meadors).

² Hearing at 30-31, 73.

³ The employees involved are those who are not protected by civil service laws. This is not an unsubstantial number of people. In Indiana, for example, at least 7,000 of the State's 28,000 employees hold such positions. See Hearing at 76 (testimony of Thomas S. Mulligan), 55 (testimony of Charles F. Eble).

⁴ See, e.g., Hearing at 19 (testimony of Representative Roush).

working on the Federally-funded highway construction program, and threatens to fire him if he does not contribute to A's party, the Justice Department cannot prosecute A. The reason is that section 601 is inapplicable because the Federal funds are not being used for "work relief or relief purposes." If section 601 is to provide adequate criminal sanctions, it must be expanded to include more than "work relief and relief" situations.⁵

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

SECTION 1

The first section of H.R. 11722 amends section 601 of title 18, United States Code. Present section 601 of title 18 has two aspects. The first is a deprivation of employment or other benefit on account of "race, creed, color, or any political activity." The second aspect, which relates to Federal jurisdiction, is that the employment or benefit must be made possible by Federal funds.

In recasting the language of section 601, the Committee made several basic decisions. The evidence gathered during the hearing focused on deprivations based on refusing to make political contributions and not on deprivations based on "race, creed, color." It was therefore decided not to expand the Federal jurisdictional aspect of section 601 insofar as it concerned deprivations based on "race, creed, color." It was also decided that these provisions should be taken out of section 601 altogether and put in a new section to be located in chapter 13 ("civil rights") of title 18. Further, the committee found the phrase "political activity" to be vague and to raise constitutional problems. It was therefore decided to replace it with more precise terms.

Section 601 as proposed by this legislation is directed at actual, attempted or threatened deprivation of employment or benefit on account of refusing to make a contribution of a thing of value, including services. Thus, section 601 will cover a situation where a letter like the one set forth above is sent to a highway construction employee who refuses to contribute money or services to the party in power. It would also cover the situation where a benefit—such as an LEAA grant—is withheld from a private individual because of the individual's refusal to contribute. It would not, however, reach a private individual who receives the LEAA grant and who conditions other persons' employment with him on those persons' making a political contribution to a specified party.⁶

Section 601 as proposed by this legislation provides for Federal jurisdiction if the employment or benefit is made possible in whole or part by an Act of Congress. Thus, for example, the statute will reach situations where the employee works construction on Federally-funded highways. Under present section 601, this would not be reached because the Federal highway money is not being spent for "work relief or relief purposes."

SECTION 2

Section 2 of H.R. 11722 amends the entry for section 601 in the table of sections for chapter 29 of title 18, United States Code. This is necessary because section 1 of the bill changes the title of section 601.

⁵ See Oversight findings, *infra* at 4.

⁶ This is so because employment with a private individual is not a "benefit of a program of the United States" within the meaning of section 601(a)(3).

SECTION 3

Section 3 of H.R. 11722 amends section 600 of title 18, United States Code, by raising the maximum fine from \$1,000 to \$10,000. Sections 600 and 601 are companion sections and ought to have the same maximum fine.

SECTION 4

Section 4 of H.R. 11722 amends chapter 13 of title 18, United States Code, by adding a new section to it (section 246). The new section is intended to continue the present policy of section 601 insofar as it concerns deprivations based upon civil rights and political affiliation. Two changes have been made in the language of present section 601. First, the basis for the discrimination ("race, creed, color" in present section 601) has been expanded to include sex and national origin. Second, in line with the action taken with regard to sections 600 and 601, the maximum fine is set at \$10,000.

OVERSIGHT

The Fraud Section of the Justice Department's Criminal Division is responsible for enforcing the provisions of sections 600 and 601 of title 18. Section 600 is addressed to the situation where a benefit, made possible in whole or part by an Act of Congress, is *promised* in return for political activity. Section 601 addresses the situation where there is a deprivation of employment or other benefit on account of political activity. However, section 601 is limited—the employment or benefit must be made possible by an Act of Congress appropriating funds for "work relief or relief purposes."

This limitation prevents the Justice Department from being able to prosecute where nonrelief benefits are taken away. The Committee concurs in the Justice Department's belief that this result "frustrates the basic purpose which sections 600 and 601 both serve."⁷

This legislation will better enable the Justice Department to carry out the Congressional policy behind sections 600 and 601 of title 18.

Cost

Pursuant to clause 7, rule XIII of the Rules of the House of Representatives, the committee estimates that no new cost to the United States is entailed by H.R. 11722.

NEW BUDGET AUTHORITY

This legislation creates no new budget authority.

STATEMENT OF THE BUDGET COMMITTEE

No statement on this legislation has been received from the House Committee on the Budget.

STATEMENT OF THE COMMITTEE ON GOVERNMENT OPERATIONS

No statement on this legislation has been received from the House Committee on Government Operations.

⁷ Hearing at 37 (testimony of Roger Pauley).

INFLATION IMPACT STATEMENT

This legislation will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

COMMITTEE VOTE

This bill was reported out of Committee on Tuesday, March 16, by voice vote. Twenty-two Members of the Committee were present.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

* * * * *

Chapter 13. CIVIL RIGHTS

Sec.

- 241. Conspiracy against rights of citizens.
- 242. Deprivation of rights under color of law.
- 243. Exclusion of jurors on account of race or color.
- 244. Discrimination against person wearing uniform of armed forces.
- 245. Federally protected activities.

246. *Deprivation of relief benefits.*

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§ 246. *Deprivation of relief benefits*

Whoever directly or indirectly deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible in whole or in part by any Act of Congress appropriating funds for work relief or relief purposes on account of political affiliation, race, color, sex, religion, or national origin, shall be fined not more than \$10,000, or imprisoned not more than one year, or both.

* * * * *

Chapter 29.—ELECTIONS AND POLITICAL ACTIVITIES

Sec.

- 591. Definitions.
- 592. Troops at polls.
- 593. Interference by armed forces.
- 594. Intimidation of voters.
- 595. Interference by administrative employees of Federal, State, or Territorial Governments.
- 596. Polling armed forces.
- 597. Expenditures to influence voting.
- 598. Coercion by means of relief appropriations.
- 599. Promise of appointment by candidate.
- 600. Promise of employment or other benefit for political activity.
- 601. Deprivation of employment or other benefit for political **[activity]** *contribution.*

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§ 600. Promise of employment or other benefit for political activity.

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than **[\$1,000]** \$10,000 or imprisoned not more than one year, or both.

§ 601. Deprivation of employment or other benefit for political activity.

Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.]

§ 601. Deprivation of employment or other benefit for political contribution

(a) *Whoever directly or indirectly deprives or denies, attempts to deprive or deny, or threatens to deprive or deny any person—*

(1) *who is an employee in or for any agency or other entity, of the government of the United States, a State, or a political subdivision of a State, of any employment, position, work, compensation, or any benefit of such employment, position, or work;*

(2) *whether or not such person is such an employee, of any employment, position, or work, in or for any agency or other entity, of the government of the United States, a State, or a political subdivision of a State; or*

(3) *whether or not such person is such an employee, of any payment under or benefit of a program of the United States, a State, or a political subdivision of a State;*

if such employment, position, work, compensation, benefit, or payment is provided for or made possible in whole or in part by an Act of Congress, on account of such person's refusing to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

(b) *As used in this section—*

(1) *the term "candidate" means an individual who seeks nomination for election, or election, to Federal, State, or local office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal, State, or local office, if he has (A) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures,*

with a view to bringing about his nomination for election, or election, to such office;

(2) *the term "election" means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or of any State; and*

(3) *the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.*

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Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

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

An Act

To amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 601 of title 18 of the United States Code is amended to read as follows:

“§ 601. Deprivation of employment or other benefit for political contribution

“(a) Whoever, directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

“(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

“(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State;

if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined not more than \$10,000, or imprisoned not more than one year, or both.

“(b) As used in this section—

“(1) the term ‘candidate’ means an individual who seeks nomination for election, or election, to Federal, State, or local office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal, State, or local office, if he has (A) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

“(2) the term ‘election’ means (A) a general, special primary, or runoff election, (B) a convention or caucus of a political party held to nominate a candidate, (C) a primary election held for the selection of delegates to a nominating convention of a political party, (D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (E) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or of any State; and

“(3) the term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.”.

H. R. 11722—2

SEC. 2. The item relating to section 601 in the table of sections for chapter 29 of title 18 of the United States Code is amended to read as follows:

“601. Deprivation of employment or other benefit for political contribution.”.

SEC. 3. Section 600 of title 18 of the United States Code is amended by striking out “\$1,000” and inserting “\$10,000” in lieu thereof.

SEC. 4. (a) Chapter 13 of title 18 of the United States Code is amended by adding at the end the following new section:

“§ 246. Deprivation of relief benefits

“Whoever directly or indirectly deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible in whole or in part by any Act of Congress appropriating funds for work relief or relief purposes, on account of political affiliation, race, color, sex, religion, or national origin, shall be fined not more than \$10,000, or imprisoned not more than one year, or both.”.

(b) The table of sections for chapter 13 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

“246. Deprivation of relief benefits.”.

Speaker of the House of Representatives.

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