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APPROVED
DEC 31 1975

signed 12/31/75

THE WHITE HOUSE
WASHINGTON
December 29, 1975

ACTION
Last Day: January 2

*Posted
12/31
To Archives
12/31*

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON ~~JP~~
SUBJECT: Enrolled Bill H.R. 4573 - Time Limits
for Civil Service Retirement Annuities

Attached for your consideration is H.R. 4573, sponsored by Representative White, which would establish a statute of limitations on claims of potential annuitants and their survivors for retirement benefits under the civil service retirement system. The enrolled bill would provide that a refund claim or claim for annuity based on the service of an employee must be received in the Commission prior to the 115th anniversary of his or her birthdate, and would require that an application for a benefit based on the service of a deceased employee must be received within 30 years after his or her death.

The enrolled bill also includes 43 perfecting amendments to title 5, United States Code, designed to correct errors and conform the title with other enactments.

Additional information is provided in OMB's enrolled bill report at Tab A.

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

RECOMMENDATION

That you sign H.R. 4573 at Tab B.



DEC 31 1975



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 24 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4573 - Time limits for civil
service retirement annuities
Sponsor - Rep. White (D) Texas

Last Day for Action

January 2, 1976 - Friday

Purpose

Establishes time limitations on claims for civil service retirement benefits; makes 43 perfecting changes in title 5, United States Code.

Agency Recommendations

Office of Management and Budget

Approval

Civil Service Commission

Approval

U.S. Postal Service

No objection

Discussion

H.R. 4573 would establish a statute of limitations on claims of potential annuitants and their survivors for retirement benefits under the civil service retirement system. Under the bill, no payment could be made from the Civil Service Retirement Fund unless an application for benefits is received by the Civil Service Commission (CSC) before the 115th anniversary of the employee (or Member of Congress). Notwithstanding that time limitation, survivors would have to claim such benefits within 30 years after the death of an employee or annuitant, or other event giving rise to the benefit entitlement. The CSC would deny claims filed after the statutory period, and would be able to destroy service records of individuals who had not filed by that time.



Under current retirement law, benefits to former employees and their survivors are due in perpetuity, with the result that CSC must retain employee service records indefinitely. This creates a recordkeeping problem which was noted in a 1972 General Accounting Office (GAO) report. GAO recommended that a statute of limitations be enacted and that CSC take affirmative action to locate persons entitled to benefits.

Following up on the GAO recommendation, CSC submitted legislation to the 93rd Congress which would have required claims to be made prior to the employee's 100th birthday, and would have permitted claims by survivors up to 10 years after the employee's or annuitant's death. In its views letter, however, CSC indicates that it is in full accord with the time limits in the enrolled bill. In submitting its legislation as well as in reports on the bill, the Commission indicated it would make periodic attempts to locate beneficiaries.

The enrolled bill also includes 43 perfecting amendments to title 5, United States Code, designed to correct errors and conform the title with other enactments, such as the Postal Reorganization Act, the codification of title 44, the reorganization of the White House Police into the Executive Protective Service, and the like.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures



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

DEC 24 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4573 - Time limits for civil
service retirement annuities
Sponsor - Rep. White (D) Texas

Last Day for Action

January 2, 1976 - Friday

Purpose

Establishes time limitations on claims for civil service retirement benefits; makes 43 perfecting changes in title 5, United States Code.

Agency Recommendations

Office of Management and Budget

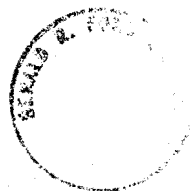
Approval

Civil Service Commission
U.S. Postal Service

Approval
No objection

Discussion

H.R. 4573 would establish a statute of limitations on claims of potential annuitants and their survivors for retirement benefits under the civil service retirement system. Under the bill, no payment could be made from the Civil Service Retirement Fund unless an application for benefits is received by the Civil Service Commission (CSC) before the 115th anniversary of the employee (or Member of Congress). Notwithstanding that time limitation, survivors would have to claim such benefits within 30 years after the death of an employee or annuitant, or other event giving rise to the benefit entitlement. The CSC would deny claims filed after the statutory period, and would be able to destroy service records of individuals who had not filed by that time.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1544

Date: December 24

Time: 130pm

FOR ACTION: Lynn May *LM*
Max Friedersdorf
Ken Lazarus
Paul

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: December 29

Time: noon

SUBJECT:

H.R. 4573 - Time Limits for civil service
retirement ~~benefits~~ annuities

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

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1544

Date: December 24

Time: 130pm

FOR ACTION: Lynn May
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: December 29

Time: noon

SUBJECT:

H.R. 4573 - Time Limits for civil service
retirement annuities

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

No problem

JL May



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.

THE WHITE HOUSE

WASHINGTON

December 29, 1975

MEMORANDUM FOR:

JIM CAVANAUGH

FROM:

MAX FRIEDERSDORF *M-6.*

SUBJECT:

H. R. 4573 - Time Limits for civil
service retirement annuities

The Office of Legislative Affairs has reviewed subject bill
and recommends it be signed.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1544

Date: December 24

Time: 130pm

FOR ACTION: Lynn May
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: December 29

Time: noon

SUBJECT:

H.R. 4573 - Time Limits for civil service
retirement annuities

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

No objection. -- Ken Lazarus 12/29/75

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.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

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FOR ACTION: Lynn May
Max Friedersdorf
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EAR

FROM THE STAFF SECRETARY

DUE: Date: December 29

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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

[Handwritten signature]

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.



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

December 23, 1975

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

Attention: Assistant Director for
Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the Commission's views on enrolled bill, H.R. 4573, "To amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes."

Section 1 of the enrolled bill contains two limiting provisions. The first provision would require that a refund claim or claim for annuity based on the service of an employee or Member must be received in the Commission prior to the 115th anniversary of his or her birthdate. The second provision would require that, notwithstanding the first provision, an application for a benefit based on the service of a deceased employee, Member, or annuitant must be received in the Commission within 30 years after his or her death or other event which gives rise to title to the benefit.

Under the present law, retirement funds are due in perpetuity to the employees who paid them and to their heirs. Accordingly, if the benefits are unclaimed, the Commission must keep records on those employees forever. Section 1 of H.R. 4573 would bar payment of benefits from the Civil Service Retirement and Disability Fund where the applications have not been filed within the appropriate time limitations. Imposition of such a bar would enable the Commission to destroy retirement records of individuals where no claims for benefits had been filed and (1) the individual, if still alive, had reached his or her 115th birthday or (2) at least 30 years had passed either after the individual was known to have died or after another event which gave rise to title.

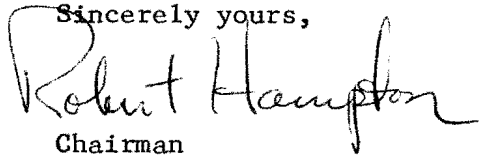
Section 2 of the bill consists of a number of amendments to the text of title 5. These amendments remove obsolete references or make other technical corrections in the text of title 5.

The Commission is in full accord with the provisions of section 1 of the enrolled bill and has no objection to the provisions of section 2.

Accordingly, the Commission recommends that the President sign the enrolled enactment.

By direction of the Commission:

Sincerely yours,

A handwritten signature in cursive script that reads "Robert Hampton". The signature is written in dark ink and is positioned below the typed name.

Chairman



LAW DEPARTMENT
Washington, DC 20260

December 22, 1975

Dear Mr. Frey:

This responds to your request for the views of the Postal Service with respect to the enrolled bill:

H. R. 4573, "To amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes."

1. Purpose of Legislation

Section 1 of the bill, which provides that an application for a survivor annuity must be received within 30 years after the death of the annuitant, will simplify the record keeping duties of the Civil Service Commission.

Section 2 of the bill proposes technical amendments to title 5, some of which update that title in view of the Postal Reorganization Act.

2. Position of the Postal Service

Section 1 of the bill will cause no problems for the Postal Service. Section 2 of the bill, insofar as it affects the Postal Service, would enact technical changes previously suggested by the Postal Service.

3. Cost or Savings

Approval of the bill will impose no additional cost on the Postal Service.



4. Recommendation of
Presidential Action

The Postal Service has no objection
to approval of this measure.

Sincerely,

A handwritten signature in cursive script that reads "W. Allen Sanders". The signature is written in dark ink and is positioned above the typed name.

W. Allen Sanders
Assistant General Counsel
Legislative Division

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

TIME LIMITS FOR APPLYING FOR RETIREMENT BENEFITS

JUNE 3, 1975.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

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

REPORT

[To accompany H.R. 4573]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 4573) to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On page 5, line 11, strike out the period and insert in lieu thereof a semicolon and immediately following line 11, insert the following:

- (31) Amend section 8331 (4) to read as follows:
“(4) ‘average pay’ means the largest annual rate resulting from averaging an employee’s or Member’s rates of basic pay in effect over any 3 consecutive years of creditable service or, in the case of an annuity under subsection (d) or (e) (1) of section 8341 of this title based on service of less than 3 years, over the total service, with each rate weighted by the time it was in effect;”;
- (32) In section 8332 (b) (7) strike out “(—U.S.C.—)”;
- (33) In section 8336 (d) strike out “a reduced” and insert “an” in place thereof;
- (34) In the last sentence of section 8336 (g) strike out “a reduced” and insert “an” in place thereof; and
- (35) In section 8902 redesignate subsection (j), as added by the Act of July 30, 1974 (P.L. 93-363, 88 Stat. 398), as subsection (k).

EXPLANATION OF AMENDMENT

The Committee amendment to the bill adds five more technical corrections to the text of title 5, United States Code, to remove obsolete or erroneous language and correct an erroneous subsection designation.

PURPOSE

The primary purpose of this legislation is to establish a statute of limitations for filing an application for Federal Civil Service Retirement benefits, so as to enable the Civil Service Commission to destroy retirement records of individuals when no claim for a benefit has been filed within the periods specified by the law.

In addition, the legislation proposes technical amendments to title 5, United States Code.

COMMITTEE ACTION

The Subcommittee on Retirement and Employee Benefits of the Post Office and Civil Service Committee held hearings on H.R. 505, sponsored by Mr. Henderson, Chairman of the Committee, and H.R. 4573, sponsored by Mr. White, Chairman of the Subcommittee, (Committee hearings 94-11). H.R. 4573 was ordered reported by the Subcommittee by a unanimous voice vote with technical amendments and was ordered reported to the House by a unanimous voice vote of the Full Committee.

SUMMARY

The bill proposes that—

(1) an application by a former employee or Member for an annuity or lump-sum credit under the Civil Service Retirement Fund, must be received in the Civil Service Commission before the 115th anniversary of his birth; and

(2) an application for a survivor annuity or lump-sum benefits must be received in the Civil Service Commission within 30 years after the death or other event which gives rise to title to the benefit.

The bill also proposes 35 technical amendments, all of which update or correct provisions of title 5, United States Code.

STATEMENT

This legislation is based on an official recommendation of the Civil Service Commission, dated May 7, 1974, submitted during the 93rd Congress. The proposal was introduced (H.R. 14675), but no action was taken and a new bill, based on the same official recommendation, was sponsored by Mr. Henderson at the beginning of the 94th Congress (H.R. 505). The Subcommittee considered a modified version of the bill in the form of H.R. 4573, sponsored by Mr. White, which was ordered reported by the Full Committee.

The Civil Service Commission recommendation resulted from a study conducted by the General Accounting Office entitled, "Un-Claimed Benefits in the Civil Service Retirement Fund", (B-130150 dated December 20, 1972). The digest of the report is set forth below.

DIGEST—COMPTROLLER GENERAL'S REPORT TO THE CONGRESS

UNCLAIMED BENEFITS IN THE CIVIL SERVICE RETIREMENT FUND,
CIVIL SERVICE COMMISSION B-130150, DECEMBER 20, 1972

Why the review was made

Thousands of former Federal employees, well beyond the retirement age, have not applied for annuities or refunds of their contributions to the Civil Service Retirement Fund. Under the rules which the Civil Service Commission is now following (1) most of the benefits probably never will be paid and (2) the Commission will be required to keep records on the unpaid benefits forever. The number of such employees will increase substantially over the years.

The General Accounting Office (GAO) made this review to determine the extent of unclaimed Federal retirement benefits, the reason for their existence, the solutions to the problem, and the feasibility of locating former Federal employees or their beneficiaries to advise them of their rights to these benefits.

*Findings and conclusions**Extent of unclaimed benefits*

Approximately 338,000 people aged 62 or over, including 269,000 people beyond the mandatory retirement age of 70, have not applied for annuities or refunds of their retirement contributions totaling about \$26 million. Approximately \$20 million, or 78 percent, of these unclaimed benefits belong to about 33,000 people, of whom each is entitled to more than \$100 and some are entitled to deferred or immediate annuities amounting to several thousand dollars.

The substantial number of unclaimed funds created a large and unnecessary recordkeeping problem for the Commission. Although GAO did not determine the financial status of any of the people entitled to the funds, it is reasonable to assume that many of them need the money. GAO therefore believes that returning the money would serve a purpose as useful as, or more useful than, correcting a serious recordkeeping problem and would provide benefits expected of the Government.

Feasibility of locating people with unclaimed benefits

Using about 100 people as a test, GAO found—with the assistance of the Federal Records Center, the Internal Revenue Service, and the Social Security Administration—that about 50 percent, with apparent current addresses, could be located. We sent letters to these people, and as of June 30, 1972, 20 had responded. These 20 were paid a total of more than \$18,700 in refunds, annuities, and death benefits. For example:

1. A former employee with 24 years of service was entitled to an accrued annuity totaling \$3,509 and will receive a monthly annuity of \$124.
2. A 73-year-old widow of a deceased Government employee was due a refund of \$392.

GAO believes that the cost of locating each individual, estimated at less than \$10, should be financed from the retirement fund because the fund is receiving substantial interest on these unclaimed funds. (Authority to spend the necessary amounts from the retirement fund will have to be obtained from the Office of Management and Budget (OMB) and the Congress.) GAO believes also that people with total refunds between \$2.6 million and \$9.6 million can be located and that the total cost of locating them will be between \$254,000 and \$389,000.

Under present law retirement funds are due in perpetuity to the employees who paid them and to their heirs; therefore, if they are unclaimed, the Commission must maintain the records forever. In our judgment, a statute of limitations is needed that would apply after certain conditions are met.

Recommendations or suggestions

We recommend that the Commission seek approval from OMB and the Congress to finance, through the retirement fund, a program to return unclaimed retirement funds. After the Commission receives approval, it should:

Search its files for the estimated 51,000 unclaimed-benefit cases involving people aged 62 or over who are owed at least \$100 each.

Attempt to locate those people by working with the Social Security Administration, the Internal Revenue Service, the Federal Records Center, and any other agencies and to notify them of their rights to the unclaimed benefits.

Periodically review unclaimed funds to insure that former Government employees receive their entitled benefits.

Consider the economic and practical possibility of reducing the minimum to less than \$100 in order that as many people as possible can be paid.

Advise Federal agencies of the extent of unclaimed benefits and reemphasize the importance of providing proper counseling to people leaving Government employment so they will be aware of their rights to retirement fund benefits.

Propose legislation (which it is now considering) to provide for a statute of limitations on the Commission's liability to pay money owed from the retirement fund. Such legislation probably should provide that the former employees would reach some age (perhaps age 100) at which the Commission would be reasonably certain that they would not make any claims. The Commission agreed to commit itself in the legislative history to trying (along the lines described above) to locate the people before applying the limitation.

Agency actions

The Commission, which cooperated in our tests, has agreed that the program outlined above appears feasible and plans to begin it as soon as funds are available. Earlier action has been prevented by a lack of a safe and reasonably economic approach to contacting owners of unclaimed benefits.

Matters for consideration by the Congress

We believe the Congress should consider:

Granting a Commission request for expense authority to finance, through the retirement fund, a search for people with unclaimed

retirement benefits, who are otherwise unlikely to claim them, as outlined in our recommendations to the Commission.

Enacting a statute of limitations to permit the Commission to destroy retirement records when it is statistically sound to conclude that no claims will be made.

The General Accounting Office Report indicates that approximately 338,000 people aged 62 or over, including 269,000 people beyond the mandatory retirement age of 70, have not applied for annuities or refunds of their retirement contributions totaling about \$26 million. Approximately \$20 million, or 78 percent of these unclaimed benefits belong to about 33,000 people, of whom each is entitled to more than \$100 and some are entitled to deferred or immediate annuities amounting to several thousand dollars.

The Comptroller General recommended that the Civil Service Commission seek approval from Congress to locate former employees with balances in the Retirement Fund amounting to \$100 or more and to settle their claims. The Act of August 30, 1973, Public Law 93-143, providing fiscal year 1974 appropriations to the Civil Service Commission, authorized the Commission to spend \$641,000 to finance a program to locate former employees with balances in the Retirement Fund and settle their claims, as proposed in the General Accounting Office Report.

The Civil Service Commission currently is completing the program to identify and locate such individuals. As a result, some \$10 million of unclaimed benefits have been paid out thus far.

Under the current provisions of the Civil Service Retirement Act, benefits to a former employee or survivor are due in perpetuity and if the benefits are unclaimed, the Civil Service Commission must keep the records forever. This legislation establishes time limitations during which the claims must be filed and if the claims are not filed within these periods (before the 115th anniversary in the case of an employee or within 30 years after the death of the employee in the case of a survivor) the Civil Service Commission would be authorized to destroy the records.

ANALYSIS OF H.R. 4573

The first section of the bill amends section 8345 of title 5, United States Code, by adding a new subsection (g). The new subsection prohibits payment being made from the Civil Service Retirement Fund unless an application for benefits, based on the service of an employee or member, is received in the Civil Service Commission before the 115th anniversary of his birth. However, in the case of the death of an individual, no benefit may be based on such individual's service unless an application is received in the Civil Service Commission within 30 years after the death or other event which gives rise to title to the benefit.

These restrictions on filing applications will enable the Civil Service Commission to destroy retirement records of individuals where claims for benefits have not been filed within the prescribed time.

Section 2 of the bill contains 35 specific amendments to the text of title 5, to remove obsolete references or to make other technical corrections.

Cost

The enactment of H.R. 4573 will involve minor administrative cost in the beginning of the program and will result in savings over the long run because the Civil Service Commission will be able to destroy inactive records, resulting in a reduction of storage costs.

INFLATIONARY IMPACT STATEMENT

As required by House rule XI, clause 2(1) (4) the Committee advises that the enactment of this legislation will not have any inflationary impact because of the minor cost involved.

COMPLIANCE WITH CLAUSE 2(1) (3) OF HOUSE RULE XI

With respect to the requirements of clause 2(1) (3) of House rule XI—

(a) oversight reviews were conducted by the Committee, primarily on the basis of the General Accounting Office report, and the recommendation of the Committee is to provide statutes of limitations as proposed by H.R. 4573;

(b) section 308(a) of the Congressional Budget Act of 1974 is not yet in effect and no statement under this paragraph is furnished;

(c) no estimate or comparison of cost has been received by the Committee from the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974; and

(d) the Committee has received no report from the Committee on Government Operations of oversight findings or recommendations under clause 2(b) (2) of House Rule X.

AGENCY REPORTS

There are set forth below the official recommendations of the Civil Service Commission, dated May 7, 1974, as well as the reports on the legislative proposals during the 94th Congress.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D.C., May 7, 1974.

HON. CARL ALBERT,
Speaker of the House of Representatives.

DEAR MR. SPEAKER. The Commission submits for the consideration of the Congress, and recommends favorable action on, the attached draft bill to amend the Civil Service Retirement law. This proposal would establish a statute of limitations on applications for Civil Service Retirement benefits.

On December 20, 1972, the Comptroller General issued a report to the Congress (B-130150) on the problem of unclaimed benefits in the Civil Service Retirement and Disability Fund. The essence of the problem is that an estimated 338,000 people aged 62 or over, including 269,000 people beyond the mandatory retirement age of 70, have not applied for annuities or refunds of their retirement contributions totaling about \$26 million and are unlikely to do so. Under the present

law, retirement funds are due in perpetuity to the employees who paid them and to their heirs. Accordingly, if they are unclaimed, the Commission must keep records on those employees forever.

The Comptroller General's report recommended that the Commission take two actions to resolve this problem.

First, within some practical bounds, the Commission should attempt to locate and repay these people who are apparently unaware of their unclaimed benefits. Second, the Commission should seek a statute of limitations to permit it to destroy retirement records when there are grounds for concluding that no claims will be made. The Commission will, of course, institute a program of periodically identifying and attempting to locate people owed unclaimed benefits before applying the limitation.

The draft bill contains two provisions. The first provision would require that a refund claim or claim for annuity based on the service of an employee or Member of Congress must be received in the Commission prior to the 100th anniversary of his birthdate. The second provision would require that notwithstanding the first provision, an application for a benefit based on the service of a deceased employee, Member or annuitant must be received in the Commission within ten years after his or her death or other event which gives rise to title to the benefit. Enactment of this draft bill would bar payment of benefits from the Civil Service Retirement and Disability Fund where these requirements had not been met. In effect, it would enable the Commission to destroy retirement records of individuals where no claims for benefits had been filed and (1) the individual, if still alive, had reached his 100th birthday or (2) at least ten years had passed after the individual was known to have died.

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 draft bill to the Congress.

A similar letter is being sent to the President of the Senate.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON, *Chairman.*

Enclosure.

A BILL To amend Chapter 83 of title 5, United States Code, to establish time limitations in applying for Civil Service Retirement benefits, 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 8345 of title 5, United States Code, is amended by adding the following new subsection at the end thereof:

"(f) (1) No payment shall be made from the Fund unless an application for benefits based on the service of an employee or Member is received in the Civil Service Commission before the one-hundredth anniversary of his birth.

(2) Notwithstanding paragraph (1) of this subsection, after the death of an employee, Member, or annuitant, no benefit based on his service shall be paid from the Fund unless an application

therefor is received in the Civil Service Commission within ten years after the death or other event which gives rise to title to the benefit."

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., April 3, 1975.

HON. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on H.R. 505, a bill "To amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes."

Section 1 of the bill contains two limiting provisions. The first provision would require that a refund claim or claim for annuity based on the service of an employee or Member must be received in the Commission prior to the 100th anniversary of his or her birthdate. The second provision would require that notwithstanding the first provision, an application for a benefit based on the service of a deceased employee, Member, or annuitant must be received in the Commission within ten years after his or her death or other event which gives rise to title to the benefit.

Under the present law, retirement funds are due in perpetuity to the employees who paid them and to their heirs. Accordingly, if they are unclaimed, the Commission must keep records on those employees forever. Section 1 of H.R. 505 would, if enacted, bar payment of benefits from the Civil Service Retirement and Disability Fund where the applications have not been filed within the appropriate time limitations. Imposition of such a bar would enable the Commission to destroy retirement records of individuals where no claims for benefits had been filed and (1) the individual, if still alive, had reached his 100th birthday or (2) at least ten years had passed either after the individual was known to have died or after another event which gave rise to title. For these reasons, the Commission recommends enactment of Section 1.

Section 2 of the bill contains a number of corrections to the text of title 5 to remove obsolete references to title 39, concerning the Postmaster General and postal employees, to change the designation of "White House Police" to "Executive Protective Service", to establish with greater certainty the effective dates of several provisions, and to make several other technical corrections. We have no objection to any of these provisions and recommend their enactment. In addition, we recommend that section 8332(b) (7) of title 5 be amended by striking out "(— U.S.C. —)". Consideration might also be given to renumbering the positions at Executive Schedule levels I, II, III, IV, and V, in sections 5312, 5313, 5314, 5315, and 5316, which are incorrectly numbered, with the numbers following changed accordingly and substituting the pay rates for these positions which became effective in February, 1969.

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,

ROBERT HAMPTON, *Chairman.*

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., April 8, 1975.

HON. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on H.R. 4573, a bill "To amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes."

Section 1 of the bill contains two limiting provisions. The first provision would require that a refund claim or claim for annuity based on the service of an employee or Member must be received in the Commission prior to the 115th anniversary of his or her birthdate. The second provision would require that, notwithstanding the first provision, an application for a benefit based on the service of a deceased employee, Member, or annuitant must be received in the Commission within 30 years after his or her death or other event which gives rise to title to the benefit.

Under the present law, retirement funds are due in perpetuity to the employees who paid them and to their heirs. Accordingly, if the benefits are unclaimed, the Commission must keep records on those employees forever. Section 1 of H.R. 4573 would, if enacted, bar payment of benefits from the Civil Service Retirement and Disability Fund where the applications have not been filed within the appropriate time limitations. Imposition of such a bar would enable the Commission to destroy retirement records of individuals where no claims for benefits had been filed and (1) the individual, if still alive, had reached his or her 115th birthday or (2) at least 30 years had passed either after the individual was known to have died or after another event which gave rise to title.

Although the Commission is in full accord with the thrust of this legislation, we would prefer lower age and time limitations. In our report on a similar bill, H.R. 505, we recommended enactment. In so doing, we endorsed not only the principle of establishing time limitations but also the specific limitations contained in section 1 of that bill, namely, (1) age 100 and (2) 10 years after death or other event giving rise to title. It is our belief that the lower limitations strike an appropriate balance between fairness to the individual and administrative necessity. Therefore, while we do not object to section 1 of H.R. 4573, we prefer section 1 of H.R. 505.

Section 2 of the bill contains a number of corrections to the text of title 5 to remove obsolete references to title 39, concerning the Postmaster General and postal employees, to change the designation of "White House Police" to "Executive Protective Service", to establish with greater certainty the effective dates of several provisions, and to make several other technical corrections. We have no objection to any of these provisions and recommend their enactment. In addition, we recommend that section 8332(b) (7) of title 5 be amended by striking out "(— U.S.C. —)". Consideration might also be given to renumbering the positions at Executive Schedule levels I, II, III, IV, and V, in sections 5312, 5313, 5314, 5315, and 5316, which are incorrectly numbered, with the numbers following changed accordingly and substitut-

ing the pay rates for these positions which became effective in February 1969.

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,

ROBERT HAMPTON,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 3, 1975.

HON. DAVID N. HENDERSON,
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. 505, "To amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes."

The principal purpose of this bill is to establish time limits on applications for civil service retirement benefits. To this end, H.R. 505 would require that claims for refund or for annuities based on service of an employee or Member be filed prior to such individual's 100th birthday, and that claims for benefits based on the service of a deceased employee, Member or annuitant be filed within 10 years after such individual's death. In its report, the Civil Service Commission states its reasons for supporting the establishment of time limits on such benefits.

We concur in the views expressed by the Civil Service Commission and, accordingly, recommend enactment of H.R. 505.

Sincerely,

JAMES F. C. HYDE, JR.,
*Acting Assistant Director
for Legislative Reference.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., May 1, 1975.

B-130150.

HON. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives.

DEAR MR. CHAIRMAN: In your letter of April 3, 1975, you requested our report on H.R. 505 and H.R. 4573, 94th Congress, bills "To establish time limitations in applying for civil service retirement benefits, and for other purposes."

The basic purpose of both bills is to establish time limitations in applying for civil service retirement benefits. They differ only in the time limitations prescribed. H.R. 505 provides that an application for retirement benefits based on service of an employee or Member of Con-

gress must be made before the 100th year after the employee or member's birth, but in no event may a survivor of a deceased employee, Member of Congress, or annuitant apply for such benefits later than 10 years after his death. The corresponding limitations contained in H.R. 4573 are the 115th anniversary of his birth or 30 years after death.

The provisions of these bills are apparently intended to alleviate the existing situation whereby a substantial number of unclaimed benefits in the Civil Service Retirement Fund are creating a recordkeeping problem for the Civil Service Commission. Under current law, there is no statute of limitations on the Commission's liability to pay money owed from the fund even though the benefits may never be claimed or paid. In a December 20, 1972, report entitled "Unclaimed Benefits in the Civil Service Retirement Fund" (B-130150), we pointed out the magnitude of the situation and recommended that the Congress consider enacting a statute of limitations to permit the Commission to destroy retirement records when it is statistically sound to conclude that no claims will be made.

Since both H.R. 505 and H.R. 4573 would establish a statute of limitations on retirement benefit liabilities as recommended by our report, we support the intention of each of the bills. We have no preference as to whether the cut-off for employee retirement applications should be after the 100th or 115th year of his birth. However, we believe the 10-year limit proposed by H.R. 505 for survivor benefit applications may be too short a period, particularly in instances where the employee or annuitant died at a young age. The 30-year limitation on survivor applications included in H.R. 4573 might be more appropriate.

Sincerely yours,

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

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 5, UNITED STATES CODE

* * * * *

PART I—THE AGENCIES GENERALLY

* * * * *

Chapter 3—POWERS

* * * * *

§ 302. Delegation of authority

(a) For the purpose of this section, "agency" has the meaning given it by section 5721 of this title.

(b) In addition to the authority to delegate conferred by other law, the head of an agency may delegate to subordinate officials the authority vested in him—

(1) by law to take final action on matters pertaining to the employment, direction, and general administration of personnel under his agency; and

(2) by section [324] 3702 of title 44 to authorize the publication of advertisements, notices, or proposals.

* * * * *

PART III—EMPLOYEES

* * * * *

Subpart A—General Provisions

* * * * *

Chapter 29—COMMISSIONS, OATHS, RECORDS, AND REPORTS

* * * * *

SUBCHAPTER I—COMMISSIONS, OATHS, AND RECORDS

* * * * *

§ 2902. Commission; where recorded

(a) * * *

(b) The commission of an officer in the civil service or uniformed services under the control of [the Postmaster General.] the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of a military department, the Secretary of the Interior, or the Secretary of the Treasury shall be made out and recorded in the department in which he is to serve under the seal of that department. The departmental seal may not be affixed to the commission before the commission has been signed by the President.

* * * * *

Chapter 33—EXAMINATION, SELECTION, AND PLACEMENT

* * * * *

Subchapter V—Promotion

SEC.

3361. Promotion; competitive service; examination.

3362. Promotion; effect of incentive award.

3363. Preference eligibles; promotion; physical qualifications; waiver.

[3364. Promotion; substitute employees in the postal field service.]

* * * * *

SUBCHAPTER IV—TRANSFERS

§ 3351. Preference eligibles; transfer; physical qualifications; waiver

In determining qualifications of a preference eligible for transfer to another position in the competitive service, an Executive agency, or the government of the District of Columbia, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate [, except an appointment made under section 3311 of title 39].

SUBCHAPTER V—PROMOTION

* * * * *

§ 3363. Preference eligibles; promotion; physical qualifications; waiver

In determining qualifications of a preference eligible for promotion to another position in the competitive service, an Executive agency, or the government of the District of Columbia, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate [, except an appointment made under section 3311 of title 39].

[§ 3364. Promotion; substitute employees in the postal field service

[When substitute employees in the postal field service are appointed on the same day, each is entitled to be promoted to the regular force in the order in which his name appeared on the register from which he was originally appointed, if of the required sex, eligible, and willing to accept, unless the vacancy on the regular force is filled by transfer or reinstatement.]

* * * * *

Chapter 35—RETENTION PREFERENCE, RESTORATION,
AND REEMPLOYMENT

* * * * *

SUBCHAPTER I—RETENTION PREFERENCE

§ 3501. Definitions; application

(a) * * *

* * * * *

(b) Except as otherwise provided by this subsection and section 3504 of this title, this subchapter applies to each employee in or under an Executive agency. This subchapter does not apply to an employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the Senate [], except an employee whose appointment is made under section 3311 of title 39].

* * * * *

SUBCHAPTER IV—REEMPLOYMENT AFTER SERVICE WITH AN
INTERNATIONAL ORGANIZATION

§ 3581. Definitions

For the purpose of this subchapter—

(1) “agency” means—

(A) an Executive agency;

(B) a military department; and

(C) an employing authority in the legislative branch;

(2) “employee” means an employee in or under an agency;

(3) “international organization” means a public international organization or international-organization preparatory commission in which the Government of the United States participates;

(4) “transfer” means the change of position by an employee from an agency to an international organization; and

(5) “reemployment” means—

(A) the reemployment of an employee under section 3582

[(a)] (b) of this title; or

(B) the reemployment of a Congressional employee within 90 days from his separation from an international organization;

following a term of employment not extending beyond the period named by the head of the agency at the time of consent to transfer or, in the absence of a named period, not extending beyond the first 5 consecutive years, or any extension thereof, after entering the employ of the international organization.

§ 3582. Rights of transferring employees

(a) * * *

* * * * *

(b) An employee entitled to the benefits of subsection (a) of this section is entitled to be reemployed within 30 days of his application for reemployment in his former position or a position of like seniority, status, and pay in the agency from which he transferred, if—

(1) he is separated from the international organization within 5 years, or any extension thereof, after entering on duty with the international organization or within such shorter period as may be named by the head of the agency at the time of consent to transfer; and

(2) he applies for reemployment not later than 90 days after the separation.

On reemployment, he is entitled to the rate of basic pay to which he would be entitled had he remained in the civil service. On reemployment, the agency shall restore his sick leave account, by credit or charge, to its status at the time of transfer. The period of separation caused by his employment with the international organization and the period necessary to effect reemployment are deemed creditable service for all appropriate civil service employment purposes. On reemployment, he is entitled to be paid, under such regulations as the President may prescribe and from appropriations or funds of the agency from which transferred, an amount equal to the difference between the pay, allowances, post differential, and other monetary benefits paid by the international organization and the pay, allowances, post differential, and other monetary benefits that would have been paid by the agency had he been detailed to the international organization under section 3343 of this title. Such a payment shall be made to an employee who is unable to exercise his reemployment right because of disability incurred while on transfer to an international organization under this subchapter and, in the case of any employee who dies while on such a transfer or during the period after separation from the international organization in which he is properly exercising or could exercise his reemployment right, in accordance with subchapter VIII of chapter 55 of this title. This subsection does not apply to a congressional employee nor may any payment provided for in the preceding two sentences of this subsection be based on a period of employment with an international organization occurring before the first day of the first pay period which begins [on or after the date of enactment of the Foreign Assistance Act of 1969] after December 29, 1969.

* * * * *

Subpart C—Employee Performance

Chapter 41—TRAINING

* * * * *

§ 4102. Exceptions; Presidential authority

(a) (1) This chapter does not apply to—

(A) a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(B) the Tennessee Valley Authority; or

(C) an individual (except a commissioned officer of the Environmental Science Services Administration) who is a member of a uniformed service during a period in which he is entitled to pay under section 204 of title 37.

(2) This chapter (except sections 4110 and 4111) does not apply to—

- (A) the Foreign Service of the United States; or
 (B) an individual appointed by the President [(except a Postmaster)], unless the individual is specifically designated by the President for training under this chapter.

* * * * *

Subpart D—Pay and Allowances

Chapter 51—CLASSIFICATION

* * * * *

§ 5102. Definitions; application

(a) * * *

* * * * *

(c) This chapter does not apply to—

* * * * *

(5) members of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, and the [White House Police] *Executive Protective Service*; and members of the police force of the National Zoological Park whose pay is fixed under section 5365 of this title;

* * * * *

(9) employees of the Government Printing Office whose pay is fixed under section [40] 305 of title 44;

* * * * *

Chapter 53—PAY RATES AND SYSTEMS

* * * * *

SUBCHAPTER I—PAY COMPATIBILITY SYSTEM

* * * * *

§ 5303. High minimum rates; Presidential authority

(a) * * *

* * * * *

(c) An increase in rate of basic pay established under this section is not an equivalent increase in pay within the meaning of section 5335(a) of this title [and section 3552 of title 39].

* * * * *

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

* * * * *

§ 5365. Police force of National Zoological Park

[(a)] The Secretary of the Smithsonian Institution shall fix the per annum rates of basic pay of positions on the police force of the National Zoological Park in accordance with the following provisions:

(1) Private—not more than the rate for GS-7, Step 5;

- (2) Sergeant—not more than the rate for GS-8, Step 5;
 (3) Lieutenant—not more than the rate for GS-9, Step 5;
 (4) Captain—not more than the rate for GS-10, Step 5.

* * * * *

Chapter 55—PAY ADMINISTRATION

* * * * *

SUBCHAPTER V—PREMIUM PAY

SEC.

5541. Definitions.
 5542. Overtime rates; computation.
 5543. Compensatory time off.
 5544. Wage-board overtime and Sunday rates; computation.
 5545. Night, [Sunday] standby, irregular, and hazardous duty differential.
 5546. Pay for Sunday and holiday work.
 5547. Limitation on premium pay.
 5548. Regulations.
 5549. Effect on other statutes.
 5550. Pay for Sunday and overtime work; employees of nonappropriated fund instrumentalities.

* * * * *

SUBCHAPTER IV—DUAL PAY AND DUAL EMPLOYMENT

* * * * *

§ 5533. Dual pay from more than one position; limitations; exceptions

(a) * * *

* * * * *

(d) Subsection (a) of this section does not apply to—

(1) pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same hours of the same day;

(2) pay consisting of fees paid on other than a time basis;

(3) pay received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period;

(4) pay paid by the Tennessee Valley Authority to an employee performing part-time or intermittent work in addition to his normal duties when the Authority considers it to be in the interest of efficiency and economy;

(5) pay received by an individual holding a position—

(A) the pay of which is paid by the Secretary of the Senate or the Clerk of the House of Representatives; or

(B) under the Architect of the Capitol;

(6) pay paid by the United States Coast Guard to an employee occupying a part-time position of lamplighter; and

(7) pay within the purview of any of the following statutes:

(A) section 162 of title 2;

(B) section 23(b) of title 13;

(C) section 327 of title 15;

(D) section 907 of title 20;

- (E) section 873 of title 33;
 [(F) section 3335 (a) or (c) of title 39;]
 [(G)](F) section 631 or 631a of title 31, District of Columbia Code; or
 [(H)](G) section 102 of title 2, Canal Zone Code.

* * * * *

SUBCHAPTER V—PREMIUM PAY

§ 5541. Definitions

For the purpose of this subchapter—

- (1) * * * * *
- (2) “employee” means—
 (A) an employee in or under an Executive agency;
 (B) an individual employed by the government of the District of Columbia; and
 (C) an employee in or under the judicial branch, the Library of Congress, the Botanic Garden, and the Office of the Architect of the Capitol, who occupies a position subject to chapter 51 and subchapter III of chapter 53 of this title; but does not include—
 (i) a justice or judge of the United States;
 (ii) the head of an agency other than the government of the District of Columbia;
 (iii) a teacher, school official, or employee of the Board of Education of the District of Columbia, whose pay is fixed under chapter 15 of title 31, District of Columbia Code;
 (iv) a member of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, or the [White House Police] *Executive Protective Service*;

§ 5545. Night, [Sunday], standby, irregular, and hazardous duty differential

(a) Except as provided by subsection (b) of this section, nightwork is regularly scheduled work between the hours of 6:00 p.m. and 6:00 a.m., and includes—

- (1) periods of absence with pay during these hours due to holidays; and
 (2) periods of leave with pay during these hours if the periods of leave with pay during a pay period total less than 8 hours.

Except as otherwise provided by subsection (c) of this section, an employee is entitled to pay for nightwork at his rate of basic pay plus premium pay amounting to 10 percent of that basic rate. This subsection and subsection (b) of this section do not modify section 180 of title 31, or other statute authorizing additional pay for nightwork.

(b) The head of an agency may designate a time after 6:00 p.m. and a time before 6:00 a.m. as the beginning and end, respectively, of night-

work for the purpose of subsection (a) of this section, at a post outside the United States where the customary hours of business extend into the hour of nightwork provided by subsection (a) of this section.

(c) The head of an agency, with the approval of the Civil Service Commission, may provide that—

(1) an employee in a position requiring him regularly to remain at, or within the confines of, his station during longer than ordinary periods of duty, a substantial part of which consists of remaining in a standby status rather than performing work, shall receive premium pay provided by other provisions of this subchapter, except for irregular, unscheduled overtime duty in excess of his regularly scheduled weekly tour. Premium pay under this paragraph is determined as an appropriate percentage, not in excess of 25 percent, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS-10 (or, for a position described in section 5542(a)(3) of this title, of the basic pay of the position), by taking into consideration the number of hours of actual work required in the position, the number of hours required in a standby status at or within the confines of the station, the extent to which the duties of the position are made more onerous by night, Sunday, or holiday work, or by being extended over periods of more than 40 hours a week, and other relevant factors; or

(2) an employee in a position in which the hours of duty cannot be controlled administratively, and which requires substantial amounts of irregular, unscheduled, overtime duty with the employee generally being responsible for recognizing, without supervision, circumstances which require him to remain on duty, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for regularly scheduled overtime, night, and Sunday duty, and for holiday duty. Premium pay under this paragraph is determined as an appropriate percentage, not less than 10 per centum nor more than 25 per centum, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS-10, by taking into consideration the frequency and duration of irregular unscheduled overtime duty required in the position.

(d) The Commission shall establish a schedule or schedules of pay differentials for irregular or intermittent duty involving unusual physical hardship or hazard. Under such regulations as the Commission may prescribe, and for such minimum periods as it determines appropriate, an employee to whom chapter 51 and subchapter III of chapter 53 of this title applies is entitled to be paid the appropriate differential for any period in which he is subjected to physical hardship or hazard not usually involved in carrying out the duties of his position. However, the pay differential—

- (1) does not apply to an employee in a position the classification of which takes into account the degree of physical hardship or hazard involved in the performance of the duties thereof; and
 (2) may not exceed an amount equal to 25 percent of the rate of basic pay applicable to the employee.

* * * * *

Subpart E—Attendance and Leave

Chapter 61—HOURS OF WORK

Sec.

6101. Basic 40-hour workweek ; work schedules ; regulations.
 6103. Holidays.
 6104. Holidays ; daily, hourly, and piece-work basis employees.
 6105. Closing of Executive departments.
 6106. Time clocks ; restrictions.

§ 6101. Basic 40-hour workweek ; work schedules ; regulations

(a) (1) For the purpose of this subsection, "employee" includes an employee of the government of the District of Columbia and an employee whose pay is fixed and adjusted from time to time under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, but does not include an employee or individual excluded from the definition of employee in section 5541(2) of this title, except as specifically provided under this paragraph.

(2) The head of each Executive agency, military department, and of the government of the District of Columbia shall—

(A) establish a basic administrative workweek of 40 hours for each full-time employee in his organization ; and

(B) require that the hours of work within that workweek be performed within a period of not more than 6 of any 7 consecutive days.

(3) Except when the head of an Executive agency, a military department, or of the government of the District of Columbia determines that his organization would be seriously handicapped in carrying out its functions or that costs would be substantially increased, he shall provide, with respect to each employee in his organization, that—

(A) assignments to tours of duty are scheduled in advance over periods of not less than 1 week ;

(B) the basic 40-hour workweek is scheduled on 5 days, Monday through Friday when possible, and the 2 days outside the basic workweek are consecutive ;

(C) the working hours in each day in the basic workweek are the same ;

(D) the basic nonovertime workday may not exceed 8 hours ;

(E) the occurrence of holidays may not affect the designation of the basic workweek ; and

(F) breaks in working hours of more than 1 hour may not be scheduled in a basic workday.

(4) Notwithstanding paragraph (3) of this subsection, the head of an Executive agency, a military department, or of the government of the District of Columbia may establish special tours of duty, of not less than 40 hours, to enable employees to take courses in nearby colleges, universities, or other [education] *educational* institutions that will equip them for more effective work in the agency. Premium pay may not be paid to an employee solely because his special tour of duty established under this paragraph results in his working on a day or at a time of day for which premium pay is otherwise authorized.

(5) The Architect of the Capitol may apply this subsection to employees under the Office of the Architect of the Capitol or the Botanic

Garden. The Librarian of Congress may apply this subsection to employees under the Library of Congress.

* * * * *

Chapter 63—LEAVE

SUBCHAPTER I—ANNUAL AND SICK LEAVE

Sec.

6301. Definitions.
 6302. General provisions.
 6303. Annual leave ; accrual.
 6304. Annual leave ; accumulation.
 6305. Home leave ; leave for Chiefs of Missions ; leave for crews of vessels.
 6306. Annual leave ; refund of lump-sum payment ; recredit of annual leave.
 6307. Sick leave ; accrual and accumulation.
 6308. Transfers between positions under different leave systems.
 [6309. Leave of absence ; rural carriers.]
 6310. Leave of absence ; aliens.
 6311. Regulations.
 6312. Accrual and accumulation for former ASCS county office employees.

SUBCHAPTER II—OTHER PAID LEAVE

Sec.

6321. Absence of veterans to attend funeral services.
 6322. Leave for jury or witness service ; official duty status for certain witness service.
 6323. Military leave ; Reserves and National Guardsmen.
 6324. Absence of certain police and firemen.
 6325. Absence resulting from hostile action abroad.
 6326. Absence in connection with funerals of immediate relatives in the Armed Forces.

SUBCHAPTER I—ANNUAL AND SICK LEAVE

* * * * *

[§ 6309. Leave of absence ; rural carriers

[The authorized absence of a rural carrier on a Saturday which occurs at the beginning, within, or at the end of a period of annual or sick leave of at least 5 days' duration, or 4 days' duration if a holiday falls at the beginning, within, or at the end of the period of annual or sick leave, is without charge to leave or loss of pay. A Saturday occurring in a period of annual or sick leave taken in a smaller number of days, at the option of the carrier, may be charged to his accrued leave and when so charged he is entitled to be paid for that absence.]

* * * * *

SUBCHAPTER II—OTHER PAID LEAVE

§ 6324. Absence of certain police and firemen

(a) Sick leave may not be charged to the account of a member of the Metropolitan Police force or the Fire Department of the District of Columbia, the United States Park Police force, or the [White House Police] *Executive Protective Service* force for an absence due to injury or illness resulting from the performance of duty.

(b) The determination of whether an injury or illness resulted from

the performance of duty shall be made under regulations prescribed by—

- (1) the District of Columbia Council for members of the Metropolitan Police force and the Fire Department of the District of Columbia;
- (2) the Secretary of the Interior for the United States Park Police force; and
- (3) the Secretary of the Treasury for the [White House Police] Executive Protective Service force.

* * * * *

Chapter 75—ADVERSE ACTIONS

* * * * *

SUBCHAPTER II—PREFERENCE ELIGIBLES

§ 7511. Definitions

For the purpose of this subchapter—

(1) “preference eligible employee” means a permanent or indefinite preference eligible who has completed a probationary or trial period as an employee of an Executive agency or as an individual employed by the government of the District of Columbia, but does not include an employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the Senate [, except an employee whose appointment is made under section 3311 of title 39]; and

(2) “adverse action” means a removal, suspension for more than 30 days, furlough without pay, or reduction in rank or pay.

* * * * *

Chapter 83—RETIREMENT

* * * * *

SUBCHAPTER III—CIVIL SERVICE RETIREMENT

§ 8331. Definitions

For the purpose of this subchapter—

* * * * *

[(4) “average pay” means the largest annual rate resulting from averaging an employee’s or Member’s rates of basic pay in effect—

[(A) over any 3 consecutive years of creditable service or, in the case of an annuity under subsection (d) or (e) (1) of section 8341 of this title based on service of less than 3 years, over the total service; or

[(B) at a Member’s option over all periods of Member service after August 2, 1946, used in the computation of an annuity under this subchapter;

with each rate weighted by the time it was in effect;]

(4) “average pay” means the largest annual rate resulting from averaging an employee’s or Member’s rates of basic pay in

effect over any 3 consecutive years of creditable service or, in the case of an annuity under subsection (d) or (e) (1) of section 8341 of this title based on service of less than 3 years, over the total service, with each rate weighted by the time it was in effect;

§ 8332. Creditable service

(a) The total service of an employee or Member is the full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

(b) The service of an employee shall be credited from the date of original employment to the date of separation on which title to annuity is based in the civilian service of the Government. Credit may not be allowed for a period of separation from the service in excess of 3 calendar days. The service includes—

(1) employment as a substitute in the postal field service;

(2) service in the Pan American Sanitary Bureau;

(3) subject to sections 8334(c) and 8339(i) of this title, service performed before July 10, 1960, as an employee of a county committee established under section 590h(b) of title 16 or of a committee or an association of producers described by section 610(b) of title 7;

(4) service as a student-employee as defined by section 5351 of this title only if he later becomes subject to this subchapter;

(5) a period of satisfactory service of a volunteer or volunteer leader under chapter 34 of title 22 only if he later becomes subject to this subchapter;

(6) employment under section 709 of title 32, United States Code, or any prior corresponding provision of law;

(7) a period of service of a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or a period of service of a full-time volunteer enrolled in a program of at least one year’s duration under part A, B or C of title I of the Domestic Volunteer Service Act of 1973 [(—U.S.C. —)] only if he later becomes subject to this subchapter;

(8) subject to sections 8334(c) and 8339(i) of this title, service performed [on or after February 19, 1929, and prior to the effective date of section 442 of the Legislative Reorganization Act of 1970] after February 18, 1929, and before noon on January 3, 1971, as a United States Capitol Guide; and

(9) subject to sections 8334(c) and [8339(h)] 8339(i) of this title, service as a substitute teacher for the government of the District of Columbia after July 1, 1955, if such service is not credited for benefits under any other retirement system established by a law of the paragraph (8) of this subsection and performed by an employee. For the purpose of paragraph (5) of this subsection—

(A) a volunteer and a volunteer leader are deemed receiving pay during their service at the respective rates of readjustment allowances payable under sections 2504(c) and 2505(1) of title 22; and

(B) the period of an individual’s service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and the termination of that service by the President or by death or resignation.

Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32, United States Code, on or after the effective date of the National Guard Technicians Act of 1968.

* * * * *
§ 8333. Eligibility for annuity

(a) * * *

(c) A Member or his survivor is eligible for an annuity under this subchapter only if the amounts named by section 8334 [of title 5] of this title have been deducted or deposited with respect to his last 5 years of civilian service, or, in the case of a survivor annuity under section 8341 (d) or (e) (1) of this [chapter] title, with respect to his total service. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 569, amended Pub. L. 91-93, § 201 (b), Oct. 20, 1969, 83 Stat. 138.)

§ 8336. Immediate retirement

(a) * * *

(d) An employee who is separated from the service—

(1) involuntarily, except by removal for cause on charges of misconduct or delinquency; or

(2) voluntarily, during a period when the agency in which he is employed is undergoing a major reduction in force, as determined by the Commission, and who is serving in such geographic areas as may be designated by the Commission;

after completing 25 years of service or after becoming 50 years of age after completing 20 years of service is entitled to [a reduced] an annuity.

(g) A Member who is separated from the service after becoming 62 years of age and completing 5 years of civilian service or after becoming 60 years of age and completing 10 years of Member service is entitled to an annuity. A Member who is separated from the service after becoming 55 years of age (but before becoming 60 years of age) and completing 30 years of service is entitled to [a reduced] an annuity. A Member who is separated from the service, except by resignation or expulsion, after completing 25 years of service or after becoming 50 years of age and (1) completing 20 years of service or (2) serving in 9 Congresses is entitled to a reduced annuity.

* * * * *
§ 8340. Cost-of-living adjustment of annuities

(a) * * *

(c) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) An annuity (except a deferred annuity under section 8338 of this title or any other provision of law) which—

(A) is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member; and

(B) has a commencing date after the effective date of the then last preceding annuity increase under subsection (b) of this section;

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under subsection (b) of this section. In the administration of this paragraph, an employee or a deceased employee shall be deemed, for the purposes of section 8339 (n) of this title, to have to his credit, on the effective date of the then last preceding annuity increase under subsection (b) of this section, a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the service.

(2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (except a child entitled under section 8341 (e) of this title), which annuity commences the day after the death of the annuitant and after the effective date of the first increase under this section, shall be increased by the total percent increase the annuitant was receiving under this section at death. However, the increase in a survivor annuity authorized by section 8 of the Act of May 29, 1930, as amended to July 6, 1950, shall be computed as if the annuity commencing date had been the effective date of the first increase under this section.

(3) For the purpose of computing the annuity of a child under section 8341 (e) of this title that commences [on or after the first day of the first month that begins on or after the date of enactment of the Civil Service Retirement Amendments of 1969] after October 31, 1969, the items \$900, \$1,080, \$2,700, and \$3,240 appearing in section 8341 (e) of this title shall be increased by the total percent increases allowed and in force under this section on or after such day and, in case of a deceased annuitant, the items 60 percent and 75 percent appearing in section 8341 (e) of this title shall be increased by the total percent allowed and in force to the annuitant under this section on or after such day.

* * * * *
§ 4341. Survivor annuities

(a) * * *

(c) The annuity of a survivor named under section 8339 (k) (1) of this title is 55 percent of the reduced annuity of the retired employee or Member. The annuity of the survivor commences on the day after the retired employee or Member dies. This annuity and the right thereto terminate on the last day of the month before the survivor dies.

§ 8345. Payment of benefits; commencement, termination, and waiver of annuity

* * * * *
(a) * * * * *
* * * * *

(g) (1) No payment shall be made from the Fund unless an application for benefits based on the service of an employee or Member is received in the Civil Service Commission before the one hundred and fifteenth anniversary of his birth.

(2) Notwithstanding paragraph (1) of this subsection, after the death of an employee, Member, or annuitant, no benefit based on his service shall be paid from the Fund unless an application therefor is received in the Civil Service Commission within 30 years after the death or other event which gives rise to title to the benefit.

* * * * *

§ 8348. Civil Service Retirement and Disability Fund

(a) * * * * *

(h) (1) Notwithstanding any other statute, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to active and retired Postal Service officers and employees, and to their survivors, when the increase results from an employee-management agreement under title 39, or any administrative action by the Postal Service taken pursuant to law, which authorizes increases in pay on which benefits are computed.

(2) The estimated increase in the unfunded liability, referred to in paragraph (1) of this subsection, shall be determined by the Civil Service Commission. The United States Postal Service shall pay the amount so determined to the Commission in [thirty] 30 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the fiscal year in which an increase in pay becomes effective.

Chapter 89—HEALTH INSURANCE

* * * * *

§ 8902. Contracting authority

(a) * * * * *

(j) Each contract under this chapter shall require the carrier to agree to pay for or provide a health service or supply in an individual case if the Commission finds that the employee, annuitant, or family member is entitled thereto under the terms of the contract.

[(j)] (k) When a contract under this chapter requires payment or reimbursement for services which may be performed by a clinical psy-

chologist or optometrist, licensed or certified as such under Federal or State law, as applicable, an employee, annuitant, or family member covered by the contract shall be free to select, and shall have direct access to, such a clinical psychologist or optometrist without supervision or referral by another health practitioner and shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. The provisions of this subsection shall not apply to group practice prepayment plans.

* * * * *



STATUTE OF LIMITATIONS FOR RETIREMENT BENEFITS

DECEMBER 11, 1975.—Ordered to be printed

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

REPORT

[To accompany H.R. 4573]

The Committee on Post Office and Civil Service, to which was referred the bill H.R. 4573, to establish time limitations in applying for civil service retirement benefits, and for other purposes having considered the same, reports favorably thereon with amendments to the text and recommends that the bill as amended do pass.

PURPOSE

The purpose of H.R. 4573 is to establish a reasonable statute of limitations on the time during which a candidate for retirement benefits or his survivor may file an application for Federal Civil Service Retirement benefits. The establishment of such a statute of limitations would authorize the Civil Service Commission to destroy the old retirement records of individuals when no claim has been filed within a reasonable period specified by law.

SPECIFIC PROVISIONS

The bill amends 5 U.S.C. 8345 by adding the following provisions:

1. No benefit would be paid from the Civil Service Retirement and Disability Fund unless the application for benefits based on the service of an employee or Member were received in the Civil Service Commission before the 115th birthday of the employee or Member; and
2. After the death of an employee, Member or annuitant, no benefit based on his service would be paid from the Fund unless application were received in the Civil Service Commission within

30 years after the death or other event which gave use to the benefit.

The effect of these provisions would be to authorize the Commission to destroy retirement records when no claim for a benefit has been received within the periods specified by law. Under the current provisions of the Retirement Act, benefits to a former employee or survivor are due in perpetuity and, if the benefits are unclaimed, the Civil Service Commission must keep the records forever.

AMENDMENTS

The bill as passed by the House of Representatives provides 35 technical amendments, all of which update or correct provisions of title 5, United States Code. The Committee has amended the bill by the addition of 9 technical corrective amendments to title 5, none of which affect the substance of the measure as it passed the House.

BACKGROUND

On May 7, 1974, the Civil Service Commission in a letter to the President of the Senate, proposed a statute of limitations on application for Civil Service Retirement benefits. The two provisions of the proposal were similar to those provided by H.R. 4573, except that the first provision provided that the claim must be received in the Civil Service Commission prior to the 100th anniversary (as opposed to 115 in the bill) of the birthday of the employee or Member; and except that the second proposal, controlling the payment of a survivor's annuity, provided that the claim must be received in the Commission within 10 years (as opposed to 30 years in the bill) of the death of a deceased employee, Member or annuitant.

The Commission's letter follows:

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 7, 1974.

HON. GERALD R. FORD,
President of the Senate.

DEAR MR. PRESIDENT: The Commission submits for the consideration of the Congress, and recommends favorable action on, the attached draft bill to amend the Civil Service Retirement law. This proposal would establish a statute of limitations on applications for Civil Service Retirement benefits.

On December 20, 1972, the Comptroller General issued a report to the Congress (B-130150) on the problem of unclaimed benefits in the Civil Service Retirement and Disability Fund. The essence of the problem is that an estimated 338,000 people aged 62 or over, including 269,000 people beyond the mandatory retirement age of 70, have not applied for annuities or refunds of their retirement contributions totaling about \$26 million and are unlikely to do so. Under the present law, retirement funds are due in perpetuity to the employees who paid them and to their heirs. Accordingly, if they are unclaimed, the Commission must keep records on those employees forever.

The Comptroller General's report recommend that the Commission take two actions to resolve this problem.

First, within some practical bounds, the Commission should attempt to locate and repay these people who are apparently unaware of their unclaimed benefits. Second, the Commission should seek a statute of limitations to permit it to destroy retirement records when there are grounds for concluding that no claims will be made. The Commission will, of course, institute a program of periodically identifying and attempting to locate people owed unclaimed benefits before applying the limitation.

The draft bill contains two provisions. The first provision would require that a refund claim or claim for annuity based on the service of an employee or Member of Congress must be received in the Commission prior to the 100th anniversary of his birthdate. The second provision would require that notwithstanding the first provision, an application for a benefit based on the service of a deceased employee, Member or annuitant must be received in the Commission within ten years after his or her death or other event which gives rise to title to the benefit. Enactment of this draft bill would bar payment of benefits from the Civil Service Retirement and Disability Fund where these requirements had not been met. In effect, it would enable the Commission to destroy retirement records of individuals where no claims for benefits had been filed and (1) the individual, if still alive, had reached his 100th birthday or (2) at least ten years had passed after the individual was known to have died.

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 draft bill to the Congress.

A similar letter is being sent to the Speaker of the House.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,
Chairman.

Enclosure.

A BILL To amend Chapter 83 of title 5, United States Code, to establish time limitations in applying for Civil Service Retirement benefits, 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 8345 of title 5, United States Code, is amended by adding the following new subsection at the end thereof:

"(f)(1) No payment shall be made from the Fund unless an application for benefits based on the service of an employee or Member is received in the Civil Service Commission before the one-hundredth anniversary of his birth.

(2) Notwithstanding paragraph (1) of this subsection, after the death of an employee, Member, or annuitant, no benefit based on his service shall be paid from the Fund unless an application therefor is received in the Civil Service Commission within ten years after the death or other event which gives rise to title to the benefit."

No action was taken on the proposal in the 93rd Congress. In the 94th Congress, the House Post Office and Civil Service Committee favorably reported H.R. 4573, with the modifications noted above, and on July 21, 1975, the House of Representatives passed H.R. 4573.

A digest of the Comptroller General's report cited in the proposal from the Civil Service Commission, "Unclaimed Benefits in the Civil Service Retirement Fund", (B-13-150, dated December 20, 1972) follows:

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS—
DIGEST—UNCLAIMED BENEFITS IN THE CIVIL SERVICE RETIREMENT FUND, CIVIL SERVICE COMMISSION, B-130150

WHY THE REVIEW WAS MADE

Thousands of former Federal employees, well beyond the retirement age, have not applied for annuities or refunds of their contributions to the Civil Service Retirement Fund. Under the rules which the Civil Services Commission is now following (1) most of the benefits probably never will be paid and (2) the Commission will be required to keep records on the unpaid benefits forever. The number of such employees will increase substantially over the years.

The General Accounting Office (GAO) made this review to determine the extent of unclaimed Federal retirement benefits, the reason for their existence, the solutions to the problem, and the feasibility of locating former Federal employees or their beneficiaries to advise them of their rights to these benefits.

FINDINGS AND CONCLUSIONS

Extent of unclaimed benefits

Approximately 338,000 people aged 62 or over, including 269,000 people beyond the mandatory retirement age of 70, have not applied for annuities or refunds of their retirement contributions totaling about \$26 million. Approximately \$20 million, or 78 percent, of these unclaimed benefits belong to about 33,000 people, of whom each is entitled to more than \$100 and some are entitled to deferred or immediate annuities amount to several thousand dollars.

The substantial number of unclaimed funds created a large and unnecessary recordkeeping problem for the Commission. Although GAO did not determine the financial status of any of the people entitled to the funds, it is reasonable to assume that many of them need the money. GAO therefore believes that returning the money would serve a purpose as useful as, or more useful than, correcting a serious recordkeeping problem and would provide benefits expected of the Government.

Feasibility of locating people with unclaimed benefits

Using about 100 people as a test, GAO found—with the assistance of the Federal Records Center, the Internal Revenue Service, and the Social Security Administration—that about 50 percent, with apparent current addresses, could be located. We sent letters to these people, and as of June 30, 1972, 20 had responded. These 20 were paid a total of more than

\$18,700 in refunds, annuities, and death benefits. For example:

1. A former employee with 24 years of service was entitled to an accrued annuity totaling \$3,509 and will receive a monthly annuity of \$124.

2. A 73-year-old widow of a deceased Government employee was due a refund of \$392.

GAO believes that the cost of locating each individual, estimated at less than \$10, should be financed from the retirement fund because the fund is receiving substantial interest on these unclaimed funds. (Authority to spend the necessary amounts from the retirement fund will have to be obtained from the Office of Management and Budget (OMB) and the Congress.) GAO believes also that people with total refunds between \$2.6 million and \$9.6 million can be located and that the total cost of locating them will be between \$254,000 and \$389,000.

Under present law retirement funds are due in perpetuity to the employees who paid them and to their heirs; therefore, if they are unclaimed, the Commission must maintain the records forever. In our judgment, a statute of limitations is needed that would apply after certain conditions are met.

RECOMMENDATIONS OR SUGGESTIONS

We recommend that the Commission seek approval from OMB and the Congress to finance, through the retirement fund, a program to return unclaimed retirement funds. After the Commission receives approval, it should:

Search its files for the estimated 51,000 unclaimed-benefit cases involving people aged 62 or over who are owed at least \$100 each.

Attempt to locate those people by working with the Social Security Administration, the Internal Revenue Service, the Federal Records Center, and any other agencies and to notify them of their rights to the unclaimed benefits.

Periodically review unclaimed funds to insure that former Government employees receive their entitled benefits.

Consider the economic and practical possibility of reducing the minimum to less than \$100 in order that as many people as possible can be paid.

Advise Federal agencies of the extent of unclaimed benefits and reemphasize the importance of providing proper counseling to people leaving Government employment so they will be aware of their rights to retirement fund benefits.

Propose legislation (which it is now considering) to provide for a statute of limitations on the Commission's liability to pay money owed from the retirement fund. Such legislation probably should provide that the former employees would reach some age (perhaps age 100) at which the Commission would be reasonably certain that they would not make any claims. The Commission agreed to commit itself in

the legislative history to trying (along the lines described above) to locate the people before applying the limitation.

AGENCY ACTIONS

The Commission, which cooperated in our tests, has agreed that the program outlined above appears feasible and plans to begin it as soon as funds are available. Earlier action has been prevented by a lack of a safe and reasonably economic approach to contacting owners of unclaimed benefits.

MATTERS FOR CONSIDERATION BY THE CONGRESS

We believe the Congress should consider:

Granting a Commission request for expense authority to finance, through the retirement fund, a search for people with unclaimed retirement benefits, who are otherwise unlikely to claim them, as outlined in our recommendations to the Commission.

Enacting a statute of limitations to permit the Commission to destroy retirement records when it is statistically sound to conclude that no claims will be made.

The Committee agrees with the action of the House in passing H.R. 4573 and with the recommendations of the Civil Service Commission and the General Accounting Office to provide for a statute of limitations on the Commission's liability to pay money owed from the Retirement Fund.

COST

The enactment of H.R. 4573 will involve minor administrative cost in the beginning and will result in savings over the long run because the Civil Service Commission will be authorized to destroy inactive records, thus reducing storage costs.

AGENCY VIEWS

Following are the views of the Civil Service Commission and the General Accounting Office on H.R. 4573.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., November 26, 1975.

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

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on H.R. 4573, a bill "To amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes."

Section 1 of the bill contains two limiting provisions. The first provision would require that a refund claim or claim for annuity based on the service of an employee or Member must be received in the Commission prior to the 115th anniversary of his or her birth-date. The second provision would require that, notwithstanding the first pro-

vision, an application for a benefit based on the service of a deceased employee, Member, or annuitant must be received in the Commission within 30 years after his or her death or other event which gives rise to title to the benefit.

Under the present law, retirement funds are due in perpetuity to the employees who paid them and to their heirs. Accordingly, if the benefits are unclaimed, the Commission must keep records on those employees forever. Section 1 of H.R. 4573 would, if enacted bar payment of benefits from the Civil Service Retirement and Disability Fund where the applications have not been filed within the appropriate time limitations. Imposition of such a bar would enable the Commission to destroy retirement records of individuals where no claims for benefits had been filed and (1) the individual, if still alive, had reached his or her 115th birthday or (2) at least 30 years had passed either after the individual was known to have died or after another event which gave rise to title.

Although the Commission is in full accord with the thrust of this legislation, we would prefer lower age and time limitations. In our report on a similar bill, H.R. 505, we recommended enactment. In so doing, we endorsed not only the principle of establishing time limitations but also the specific limitations contained in section 1 of that bill, namely, (1) age 100 and (2) 10 years after death or other event giving rise to title. It is our belief that the lower limitations strike an appropriate balance between fairness to the individual and administrative necessity. Therefore, while we do not object to section 1 of H.R. 4573, we prefer section 1 of H.R. 505.

Section 2 of the bill contains a number of corrections to the text of title 5: to remove obsolete references to title 39, concerning the Postmaster General and postal employees; to change the designation of "White House Police" to "Executive Protective Service"; to establish with greater certainty the effective dates of several provisions; to explicitly define 'average pay' for purposes of computing survivor benefits under 5 U.S.C. 8341(d) or (e) in cases of employees or Members who die in service; and to make several other technical corrections. We have no objection to any of these provisions and recommend their enactment.

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,

ROBERT HAMPTON,
Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., August 12, 1975.

B-130150.

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

DEAR MR. CHAIRMAN: In your letter of July 24, 1975, you requested our views on H.R. 4573, 94th Congress, a bill "To establish time limita-

tions in applying for civil service retirement benefits, and for other purposes."

The basic purpose of the bill is to establish time limitations in applying for civil service retirement benefits. H.R. 4573 provides that an application for retirement benefits based on service of an employee or Member of Congress must be made before the 115th year after the employee's or Member's birth, but in no event may a survivor of an employee, Member of Congress, or annuitant apply for such benefits later than 30 years after his death.

The provisions of this bill are apparently intended to alleviate the existing situation whereby a substantial number of unclaimed benefits in the Civil Service Retirement Fund are creating a record-keeping problem for the Civil Service Commission. Under current law, there is no statute of limitations on the Commission's liability to pay money owed from the fund even though the benefits may never be claimed or paid. In a December 20, 1972 report entitled, "Unclaimed Benefits in the Civil Service Retirement Fund" (B-130150), we pointed out the magnitude of the situation and recommended that the Congress consider enacting a statute of limitations to permit the Commission to destroy retirement records when it is statistically sound to conclude that no claims will be made.

Since H.R. 4573 would establish a statute of limitations on retirement benefit liabilities as recommended by our report, we support the intention of the bill.

Sincerely yours,

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

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new material is shown in italic) :

TITLE 5, UNITED STATES CODE

* * * * *

PART I—THE AGENCIES GENERALLY

* * * * *

Chapter 3—POWERS

* * * * *

§ 302. Delegation of authority

(a) For the purpose of this section, "agency" has the meaning given it by section 5721 of this title.

(b) In addition to the authority to delegate conferred by other law, the head of an agency may delegate to subordinate officials the authority vested in him—

(1) by law to take final action on matters pertaining to the employment, direction, and general administration of personnel under his agency; and

(2) by section [324] 3702 of title 44 to authorize the publication of advertisements, notices, or proposals.

* * * * *

Chapter 5—ADMINISTRATIVE PROCEDURES

* * * * *

§ 552a. Records maintained on individuals

(a) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means agency as defined in section 552(e) of this title;

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(3) the term "maintain" includes maintain, collect, use, or disseminate;

* * * * *

(5) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior [to the effective date of this section.] to September 27, 1975;

PART III—EMPLOYEES

* * * * *

Subpart A—General Provisions

* * * * *

Chapter 29—COMMISSIONS, OATHS, RECORDS, AND REPORTS

* * * * *

SUBCHAPTER I—COMMISSIONS, OATHS, AND RECORDS

* * * * *

§ 2902. Commission; where recorded

(a) * * *

(b) The commission of an officer in the civil service or uniformed services under the control of [the Postmaster General,] the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of a military department, the Secretary of the Interior, or the Secretary of the Treasury shall be made out and recorded in the department in which he is to serve under the seal of that department. The departmental seal may not be affixed to the commission before the commission has been signed by the President.

* * * * *

Chapter 33—EXAMINATION, SELECTION, AND PLACEMENT

* * * * *

Subchapter V—Promotion

SEC.

3361. Promotion; competitive service; examination.

3362. Promotion; effect of incentive award.

3363. Preference eligibles; promotion; physical qualifications; waiver.

[3364. Promotion; substitute employees in the postal field service.]

* * * * *

SUBCHAPTER IV—TRANSFERS

§ 3351. Preference eligibles; transfer; physical qualifications; waiver

In determining qualifications of a preference eligible for transfer to another position in the competitive service, an Executive agency, or the government of the District of Columbia, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate [, except an appointment made under section 3311 of title 39].

SUBCHAPTER V—PROMOTION

* * * * *

§ 3363. Preference eligibles; promotion; physical qualifications; waiver

In determining qualifications of a preference eligible for promotion to another position in the competitive service, an Executive agency,

or the government of the District of Columbia, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate [, except an appointment made under section 3311 of title 39].

[§ 3364. Promotion; substitute employees in the postal field service

[When substitute employees in the postal field service are appointed on the same day, each is entitled to be promoted to the regular force in the order in which his name appeared on the register from which he was originally appointed, if of the required sex, eligible, and willing to accept, unless the vacancy on the regular force is filled by transfer or reinstatement.]

* * * * *

Chapter 35—RETENTION PREFERENCE, RESTORATION, AND REEMPLOYMENT

* * * * *

SUBCHAPTER I—RETENTION PREFERENCE

§ 3501. Definitions; application

(a) * * *

* * * * *

(b) Except as otherwise provided by this subsection and section 3504 of this title, this subchapter applies to each employee in or under an Executive agency. This subchapter does not apply to an employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the Senate [, except an employee whose appointment is made under section 3311 of title 39].

* * * * *

SUBCHAPTER IV—REEMPLOYMENT AFTER SERVICE WITH AN INTERNATIONAL ORGANIZATION

§ 3581. Definitions

For the purpose of this subchapter—

(1) “agency” means—

(A) an Executive agency;

(B) a military department; and

(C) an employing authority in the legislative branch;

(2) “employee” means an employee in or under an agency;

(3) “international organization” means a public international organization or international-organization preparatory commission in which the Government of the United States participates;

(4) "transfer" means the change of position by an employee from an agency to an international organization; and

(5) "reemployment" means—

(A) the reemployment of an employee under section 3582 [(a)] (b) of this title; or

(B) the reemployment of a Congressional employee within 90 days from his separation from an international organization;

following a term of employment not extending beyond the period named by the head of the agency at the time of consent to transfer or, in the absence of a named period, not extending beyond the first 5 consecutive years, or any extension thereof, after entering the employ of the international organization.

§ 3582. Rights of transferring employees

(a) * * *

* * * * *

(b) An employee entitled to the benefits of subsection (a) of this section is entitled to be reemployed within 30 days of his application for reemployment in his former position or a position of like seniority, status, and pay in the agency from which he transferred, if—

(1) he is separated from the international organization within 5 years, or any extension thereof, after entering on duty with the international organization or within such shorter period as may be named by the head of the agency at the time of consent to transfer; and

(2) he applies for reemployment not later than 90 days after the separation.

On reemployment, he is entitled to the rate of basic pay to which he would be entitled had he remained in the civil service. On reemployment, the agency shall restore his sick leave account, by credit or charge, to its status at the time of transfer. The period of separation caused by his employment with the international organization and the period necessary to effect reemployment are deemed creditable service for all appropriate civil service employment purposes. On reemployment, he is entitled to be paid, under such regulations as the President may prescribe and from appropriations or funds of the agency from which transferred, an amount equal to the difference between the pay, allowances, post differential, and other monetary benefits paid by the international organization and the pay, allowances, post differential, and other monetary benefits that would have been paid by the agency had he been detailed to the international organization under section 3343 of this title. Such a payment shall be made to an employee who is unable to exercise his reemployment right because of disability incurred while on transfer to an international organization under this subchapter and, in the case of any employee who dies while on such a transfer or during the period after separation from the international organization in which he is properly exercising or could exercise his reemployment right, in accordance with subchapter VIII of chapter 55 of this title. This subsection does not apply to a congressional employee nor may any payment provided for in the preceding two sentences of this subsection be based on a period of employment with an international organization occurring before the first day

of the first pay period which begins [on or after the date of enactment of the Foreign Assistance Act of 1969] after December 29, 1969.

* * * * *

Subpart C—Employee Performance

Chapter 41—TRAINING

* * * * *

§ 4102. Exceptions; Presidential authority

(a) (1) This chapter does not apply to—

(A) a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(B) the Tennessee Valley Authority; or

(C) an individual (except a commissioned officer of the Environmental Science Services Administration) who is a member of a uniformed service during a period in which he is entitled to pay under section 204 of title 37.

(2) This chapter (except sections 4110 and 4111) does not apply to—

(A) the Foreign Service of the United States; or

(B) an individual appointed by the President [(except a Postmaster)], unless the individual is specifically designated by the President for training under this chapter.

* * * * *

Subpart D—Pay and Allowances

Chapter 51—CLASSIFICATION

* * * * *

§ 5102. Definitions; application

(a) * * *

* * * * *

(c) This chapter does not apply to—

* * * * *

(5) members of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, and the [White House Police] *Executive Protective Service*; and members of the police force of the National Zoological Park whose pay is fixed under section 5365 of this title;

* * * * *

(9) employees of the Government Printing Office whose pay is fixed under section [40] 305 of title 44;

* * * * *

§ 5108. Classification of positions at GS-16, 17, and 18

(a) A majority of the Civil Service Commissioners may establish, and from time to time revise, the maximum numbers of positions (not to exceed an aggregate of 2,754, in addition to any professional engineering positions primarily concerned with research and devel-

opment and professional positions in the physical and natural sciences and medicine which may be placed in these grades, and in addition to 240 hearing examiner positions under section 3105 of this title which may be placed in GS-16 and 9 such positions which may be placed in GS-17) which may be placed in GS-16, 17, and 18 at any one time. However, under this authority, not to exceed 25 percent of the aggregate number may be placed in GS-17 and not to exceed 12 percent of the aggregate number may be placed in GS-18. A position may be placed in GS-16, 17, or 18 only by action of, or after prior approval, by a majority of the Civil Service Commissioners.

(b) (1) The number of positions of senior specialists in the Legislative Reference Service, Library of Congress, placed in GS-16, 17, and 18 under the proviso in section 166(b) (1) of title 2 are in addition to the number of positions authorized by subsection (a) of this section.

* * * * *

(11) the Law Enforcement Assistance Administration may place a total of [twenty-two] *twenty-five* positions in GS-16, 17, and 18;

(12) the Chief Judge of the United States Tax Court, without regard to this chapter (except section 5114), may place a total of 5 positions in GS-16, 17, and 18;

[(12)] (13) The Commodity Futures Trading Commission, subject to the standards and procedures prescribed by this chapter, may place an additional twenty positions in GS-16, GS-17, and GS-18 for purposes of carrying out its functions.

[(12)] (14) the Secretary of Health, Education, and Welfare, subject to the standards and procedures prescribed by this chapter, may place one additional position in the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration in GS-16, GS-17, or GS-18.

[(13)] (15) the Chairman of the Equal Employment Opportunity Commission, subject to the standards and procedures prescribed by this chapter, may place an additional ten positions in the Equal Employment Opportunity Commission in GS-16, GS-17, and GS-18 for the purposes of carrying out title VII of the Civil Rights Act of 1964; and

[(14)] (16) the Secretary of Health, Education, and Welfare, subject to the standards and procedures prescribed by this chapter, may place a total of eleven positions in the National Institute on Alcohol Abuse and Alcoholism in GS-16, 17, and 18.

* * * * *

Chapter 53—PAY RATES AND SYSTEMS

* * * * *

SUBCHAPTER I—PAY COMPATIBILITY SYSTEM

§ 5303. High minimum rates; Presidential authority

(a) * * *

* * * * *

(c) An increase in rate of basic pay established under this section is not an equivalent increase in pay within the meaning of section 5335 (a) of this title [and section 3552 of title 39].

* * * * *

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$40,000:

* * * * *

(51) Under Secretary of Housing and Urban Development.

(52) Urban Mass Transportation Administrator.

(53) President, Overseas Private Investment Corporation.

[(55)] (54) Chairman, Postal Rate Commission.

[(55)] (55) Administrator of Law Enforcement Assistance.

[(57)] (56) Chairman, Occupational Safety and Health Review Commission.

[(58)] (57) Governor of the Farm Credit Administration.

[(58)] (58) Chairman, Equal Employment Opportunity Commission.

[(59)] (59) Chairman, Consumer Product Safety Commission.

[(60)] (60) Deputy Administrator, Energy Research and Development Administration.

[(60)] (61) Chairman, Commodity Futures Trading Commission.

[(60)] (62) Deputy Special Representative for Trade Negotiations (2).

[(61)] (63) Chairman, United States International Trade Commission.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$38,000;

* * * * *

(91) Federal Insurance Administrator, Department of Housing and Urban Development.

(92) Executive Vice President, Overseas Private Investment Corporation.

[(92)] (93) Administrator or the National Credit Union Administration.

[(93)] (94) Memebers, Postal Rate Commission (4).

[(94)] (95) Members, Occupational Safety and Health Review Commission.

[(95)] (96) Deputy Director of the Special Action Office for Drug Abuse Prevention.

[(96)] (97) Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury) (2).

[(97)] (98) Members, Consumer Product Safety Commission (4).

[(97)] (99) Commissioner of Social Security, Department of Health, Education, and Welfare.

[(99)] (100) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.

- [(100)] (101) Administrator for Federal Procurement Policy.
- [(100)] (102) Assistant Administrators, Energy Research and Development Administration (6).
- [(100)] (103) Members, Commodity Future Trading Commission.
- [(101)] (104) Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission.
- [(102)] (105) Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission.
- [(103)] (106) Director of Nuclear Regulatory Research, Nuclear Regulatory Commission.
- [(104)] (107) Executive Director for Operations, Nuclear Regulatory Commission.

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$36,000:

- * * * * *
- (131) Assistant Directors, Special Action Office for Drug Abuse Prevention (6).
- (132) General Counsel of the Equal Employment Opportunities Commission.
- (133) Director, National Cemetery System, Veterans' Administration.
- [(133)] (134) Deputy Administrator for Administration of the Law Enforcement Assistance Administration.
- [(134)] (135) General Counsel, Energy Research and Development Administration.
- [(135)] (136) Additional officers, Energy Research and Development Administration (8).
- [(135)] (137) General Counsel, Commodity Futures Trading Commission.
- [(136)] (138) Additional officers, Nuclear Regulatory Commission (5).
- [(136)] (139) Executive Director, Commodity Futures Trading Commission.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

* * * * *

§ 5365. Police force of National Zoological Park

[(a)] The Secretary of the Smithsonian Institution shall fix the per annum rates of basic pay of positions on the police force of the National Zoological Park in accordance with the following provisions:

- (1) Private—not more than the rate for GS-7, Step 5;
- (2) Sergeant—not more than the rate for GS-8, Step 5;
- (3) Lieutenant—not more than the rate for GS-9, Step 5;
- (4) Captain—not more than the rate for GS-10, Step 5.

* * * * *

Chapter 55—PAY ADMINISTRATION

* * * * *

SUBCHAPTER V—PREMIUM PAY

- Sec.
- 5541. Definitions.
- 5542. Overtime rates; computation.
- 5543. Compensatory time off.
- 5544. Wage-board overtime and Sunday rates; computation.
- 5545. Night, [Sunday.] standby, irregular, and hazardous duty differential.
- 5546. Pay for Sunday and holiday work.
- 5547. Limitation on premium pay.
- 5548. Regulations.
- 5549. Effect on other statutes.
- 5550. Pay for Sunday and overtime work; employees of nonappropriated fund instrumentalities.

* * * * *

SUBCHAPTER IV—DUAL PAY AND DUAL EMPLOYMENT

* * * * *

§ 5533. Dual pay from more than one position; limitations; exceptions

- (a) * * *
- * * * * *
- (d) Subsection (a) of this section does not apply to—
 - (1) pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same hours of the same day;
 - (2) pay consisting of fees paid on other than a time basis;
 - (3) pay received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period;
 - (4) pay paid by the Tennessee Valley Authority to an employee performing part-time or intermittent work in addition to his normal duties when the Authority considers it to be in the interest of efficiency and economy;
 - (5) pay receive by an individual holding a position—
 - (A) the pay of which is paid by the Secretary of the Senate or the Clerk of the House of Representatives; or
 - (B) under the Architect of the Capitol;
 - (6) pay paid by the United States Coast Guard to an employee occupying a part-time position of lamplighter; and
 - (7) pay within the purview of any of the following statutes:
 - (A) section 162 of title 2;
 - (B) section 23 (b) of title 13;
 - (C) section 327 of title 15;
 - (D) section 907 of title 20;
 - (E) section 873 of title 33;
 - [(F) section 3335 (a) or (c) of title 39;]
 - [(G)] (F) section 631 or 631a of title 31, District of Columbia Code; or
 - [(H)] (G) section 102 of title 2, Canal Zone Code.

* * * * *

SUBCHAPTER V—PREMIUM PAY

§ 5541. Definitions

For the purpose of this subchapter—

(1) * * *

* * * * *

(2) “employee” means—

(A) an employee in or under an Executive agency;

(B) an individual employed by the government of the District of Columbia; and

(C) an employee in or under the judicial branch, the Library of Congress, the Botanic Garden, and the Office of the Architect of the Capitol, who occupies a position subject to chapter 51 and subchapter III of chapter 53 of this title;

but does not include—

(i) a justice or judge of the United States;

(ii) the head of an agency other than the government of the District of Columbia;

(iii) a teacher, school official, or employee of the Board of Education of the District of Columbia, whose pay is fixed under chapter 15 of title 31, District of Columbia Code;

(iv) a member of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, or the [White House Police] *Executive Protective Service*;

* * * * *

§ 5545. Night, [Sunday], standby, irregular, and hazardous duty differential

(a) Except as provided by subsection (b) of this section, nightwork is regularly scheduled work between the hours of 6:00 p.m. and 6:00 a.m., and includes—

(1) periods of absence with pay during these hours due to holidays; and

(2) periods of leave with pay during these hours if the periods of leave with pay during a pay period total less than 8 hours.

Except as otherwise provided by subsection (c) of this section, an employee is entitled to pay for nightwork at his rate of basic pay plus premium pay amounting to 10 percent of that basic rate. This subsection and subsection (b) of this section do not modify section 180 of title 31, or other statute authorizing additional pay for nightwork.

(b) The head of an agency may designate a time after 6:00 p.m. and a time before 6:00 a.m. as the beginning and end, respectively, of nightwork for the purpose of subsection (a) of this section, at a post outside the United States where the customary hours of business extend into the hours of nightwork provided by subsection (a) of this section.

(c) The head of an agency, with the approval of the Civil Service Commission, may provide that—

(1) an employee in a position requiring him regularly to remain at, or within the confines of, his station during longer than ordinary periods of duty, a substantial part of which consists of remaining in a standby status rather than performing work, shall receive premium pay provided by other provisions of this subchapter, except for irregu-

lar, unscheduled overtime duty in excess of his regularly scheduled weekly tour. Premium pay under this paragraph is determined as an appropriate percentage, not in excess of 25 percent, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS-10 (or, for a position described in section 5542(a)(3) of this title, of the basic pay of the position), by taking into consideration the number of hours of actual work required in the position, the number of hours required in a standby status at or within the confines of the station, the extent to which the duties of the position are made more onerous by night, Sunday, or holiday work, or by being extended over periods of more than 40 hours a week, and other relevant factors; or

(2) an employee in a position in which the hours of duty cannot be controlled administratively, and which requires substantial amounts of irregular, unscheduled, overtime duty with the employee generally being responsible for recognizing, without supervision, circumstances which require him to remain on duty, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for regularly scheduled overtime, night, and Sunday duty, and for holiday duty. Premium pay under this paragraph is determined as an appropriate percentage, not less than 10 per centum nor more than 25 per centum, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS-10, by taking into consideration the frequency and duration of irregular unscheduled overtime duty required in the position.

(d) The Commission shall establish a schedule or schedules of pay differentials for irregular or intermittent duty involving unusual physical hardship or hazard. Under such regulations as the Commission may prescribe, and for such minimum periods as it determines appropriate, an employee to whom chapter 51 and subchapter III of chapter 53 of this title applies is entitled to be paid the appropriate differential for any period in which he is subjected to physical hardship or hazard not usually involved in carrying out the duties of his position. However, the pay differential—

(1) does not apply to an employee in a position the classification of which takes into account the degree of physical hardship or hazard involved in the performance of the duties thereof; and

(2) may not exceed an amount equal to 25 percent of the rate of basic pay applicable to the employee.

* * * * *

Subpart E—Attendance and Leave

Chapter 61—HOURS OF WORK

Sec.

6101. Basic 40-hour workweek; work schedules; regulations.

6103. Holidays.

6104. Holidays; daily, hourly, and piece-work basis employees.

6105. Closing of Executive departments.

6106. Time clocks; restrictions.

§ 6101. Basic 40-hour workweek; work schedules; regulations

(a) (1) For the purpose of this subsection, “employee” includes an employee of the government of the District of Columbia and an em-

ployee whose pay is fixed and adjusted from time to time under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, but does not include an employee or individual excluded from the definition of employee in section 5541 (2) of this title, except as specifically provided under this paragraph.

(2) The head of each Executive agency, military department, and of the government of the District of Columbia shall—

(A) establish a basic administrative workweek of 40 hours for each full-time employee in his organization; and

(B) require that the hours of work within that workweek be performed within a period of not more than 6 of any 7 consecutive days.

(3) Except when the head of an Executive agency, a military department, or of the government of the District of Columbia determines that his organization would be seriously handicapped in carrying out its functions or that costs would be substantially increased, he shall provide, with respect to each employee in his organization, that—

(A) assignments to tours of duty are scheduled in advance over periods of not less than 1 week;

(B) the basic 40-hour workweek is scheduled on 5 days, Monday through Friday when possible, and the 2 days outside the basic workweek are consecutive;

(C) the working hours in each day in the basic workweek are the same;

(D) the basic nonovertime workday may not exceed 8 hours;

(E) the occurrence of holidays may not affect the designation of the basic workweek; and

(F) breaks in working hours of more than 1 hour may not be scheduled in a basic workday.

(4) Notwithstanding paragraph (3) of this subsection, the head of an Executive agency, a military department, or of the government of the District of Columbia may establish special tours of duty, of not less than 40 hours, to enable employees to take courses in nearby colleges, universities, or other [education] *educational* institutions that will equip them for more effective work in the agency. Premium pay may not be paid to an employee solely because his special tour of duty established under this paragraph results in his working on a day or at a time of day for which premium pay is otherwise authorized.

(5) The Architect of the Capitol may apply this subsection to employees under the Office of the Architect of the Capitol or the Botanic Garden. The Librarian of Congress may apply this subsection to employees under the Library of Congress.

* * * * *

Chapter 63—LEAVE

SUBCHAPTER I—ANNUAL AND SICK LEAVE

Sec.

6301. Definitions.
 6302. General provisions.
 6303. Annual leave; accrual.
 6304. Annual leave; accumulation.
 6305. Home leave; leave for Chiefs of Missions; leave for crews of vessels.
 6306. Annual leave; refund of lump-sum payment; recredit of annual leave.

Sec.

6307. Sick leave; accrual and accumulation.
 6308. Transfers between positions under different leave systems.
 [6309. Leave of absence; rural carriers.]
 6310. Leave of absence; aliens.
 6311. Regulations.
 6312. Accrual and accumulation for former ASCS county office employees.

SUBCHAPTER II—OTHER PAID LEAVE

Sec.

6321. Absence of veterans to attend funeral services.
 6322. Leave for jury witness service; official duty status for certain witness service.
 6323. Military leave; Reserves and National Guardsmen.
 6324. Absence of certain police and firemen.
 6325. Absence resulting from hostile action abroad.
 6326. Absence in connection with funerals of immediate relatives in the Armed Forces.

SUBCHAPTER I—ANNUAL AND SICK LEAVE

* * * * *

[§ 6309. Leave of absence; rural carriers

[The authorized absence of a rural carrier on a Saturday which occurs at the beginning, within, or at the end of a period of annual or sick leave of at least 5 days' duration, or 4-days' duration if a holiday falls at the beginning, within, or at the end of the period of annual or sick leave, is without charge to leave or loss of pay. A Saturday occurring in a period of annual or sick leave taken in a smaller number of days, at the option of the carrier, may be charged to his accrued leave and when so charged he is entitled to be paid for that absence.]

* * * * *

SUBCHAPTER II—OTHER PAID LEAVE

§ 6324. Absence of certain police and firemen

(a) Sick leave may not be charged to the account of a member of the Metropolitan Police force or the Fire Department of the District of Columbia, the United States Park Police force, or the [White House Police] *Executive Protective Service* force for an absence due to injury or illness resulting from the performance of duty.

(b) The determination of whether an injury or illness resulted from the performance of duty shall be made under regulations prescribed by—

(1) the District of Columbia Council for members of the Metropolitan Police force and the Fire Department of the District of Columbia;

(2) the Secretary of the Interior for the United States Park Police force; and

(3) the Secretary of the Treasury for the [White House Police] *Executive Protective Service* force.

* * * * *

Chapter 75—ADVERSE ACTIONS

* * * * *

SUBCHAPTER II—PREFERENCE ELIGIBLES

§ 7511. Definitions

For the purpose of this subchapter—

(1) "preference eligible employee" means a permanent or indefinite preference eligible who has completed a probationary or trial period as an employee of an Executive agency or as an individual employed by the government of the District of Columbia, but does not include an employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the Senate [], except an employee whose appointment is made under section 3311 of title 39 []; and

(2) "adverse action" means a removal, suspension for more than 30 days, furlough without pay, or reduction in rank or pay.

* * * * *

Chapter 81—COMPENSATION FOR WORK INJURIES

* * * * *

§ 8193. Administration

(a) DEFINITIONS AND RULES OF CONSTRUCTION.—For the purpose of this subchapter—

(1) The term "Attorney General" includes any person to whom the Attorney General has delegated any function pursuant to subsection (b) of this section.

(2) The term "Secretary of Labor" includes any person to whom the Secretary of Labor has delegated any function pursuant to subsection (b) of this section.

* * * * *

(e) COOPERATION WITH STATE AGENCIES.—The Secretary of Labor shall cooperate fully with the appropriate State and local officials, and shall take all other practicable measures, to assure that the benefits of this subchapter are made available to eligible officers and their survivors with a minimum of delay and difficulty.

[(e)] (f) APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subchapter. (Added Pub. L. 90-291, § 1(a), Apr. 19, 1968, 82 Stat. 99.)

* * * * *

Chapter 83—RETIREMENT

* * * * *

SUBCHAPTER III—CIVIL SERVICE RETIREMENT

§ 8331. Definitions

For the purpose of this subchapter—

* * * * *

[(4) "average pay" means the largest annual rate resulting from averaging an employee's or Member's rates of basic pay in effect—

[(A) over any 3 consecutive years of creditable service or, in the case of an annuity under subsection (d) or (e) (1) of

section 8341 of this title based on service of less than 3 years, over the total service; or

[(B) at a Member's option over all periods of Member service after August 2, 1946, used in the computation of an annuity under this subchapter; with each rate weighted by the time it was in effect;]

(4) "average pay" means the largest annual rate resulting from averaging an employee's or Member's rates of basic pay in effect over any 3 consecutive years of creditable service or, in the case of an annuity under subsection (d) or (e) (1) of section 8341 of this title based on service of less than 3 years, over the total service, with each rate weighted by the time it was in effect;

§ 8332. Creditable service

(a) The total service of an employee or Member is the full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

(b) The service of an employee shall be credited from the date of original employment to the date of separation on which title to annuity is based in the civilian service of the Government. Credit may not be allowed for a period of separation from the service in excess of 3 calendar days. The service includes—

(1) employment as a substitute in the postal field service;

(2) service in the Pan American Sanitary Bureau;

(3) subject to sections 8334(c) and 8339(i) of this title, service performed before July 10, 1960, as an employee of a country committee established under section 590h(b) of title 16 or of a committee or an association of producers described by section 610(b) of title 7;

(4) service as a student-employee as defined by section 5351 of this title only if he later becomes subject to this subchapter;

(5) a period of satisfactory service of a volunteer or volunteer leader under chapter 34 of title 22 only if he later becomes subject to this subchapter;

(6) employment under section 709 of title 32, United States Code, or any prior corresponding provision of law;

(7) a period of service of a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or a period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B or C of title I of the Domestic Volunteer Service Act of 1973 [(-U.S.C.—)] only if he later becomes subject to this subchapter;

(8) subject to sections 8334(c) and 8339(i) of this title, service performed [on or after February 19, 1929, and prior to the effective date of section 442 of the Legislative Reorganization Act of 1970] after February 18, 1929, and before noon on January 3, 1971, as a United States Capitol Guide; and

(9) subject to sections 8334(c) and [8339(h)] 8339(i) of this title, service as a substitute teacher for the government of the District of Columbia after July 1, 1955, if such service is not credited for benefits under any other retirement system established by a law of the paragraph (8) of this subsection and performed by an employee. For the purpose of paragraph (5) of this subsection—

(A) a volunteer and a volunteer leader are deemed receiving pay during their service at the respective rates of readjustment allowances payable under sections 2504(c) and 2505(1) of title 22; and

(B) the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and the termination of that service by the President or by death or resignation.

Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32, United States Code, on or after the effective date of the National Guard Technicians Act of 1968.

* * * * *

§ 8333. Eligibility for annuity

(a) * * *

* * * * *

(c) A Member or his survivor is eligible for an annuity under this subchapter only if the amounts named by section 8334 [of title 5] of this title have been deducted or deposited with respect to his last 5 years of civilian service, or, in the case of a survivor annuity under section 8341 (d) or (e) (1) of this [chapter] title, with respect to his total service. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 569, amended Pub. L. 91-93, § 201(b), Oct. 20, 1969, 83 Stat. 138.)

§ 8336. Immediate retirement

(a) * * *

* * * * *

(d) An employee who is separated from the service—

(1) involuntarily, except by removal for cause on charges of misconduct or delinquency; or

(2) voluntarily, during a period when the agency in which he is employed is undergoing a major reduction in force, as determined by the Commission, and who is serving in such geographic areas as may be designated by the Commission;

after completing 25 years of service or after becoming 50 years of age after completing 20 years of service is entitled to [a reduced] an annuity.

* * * * *

(g) A Member who is separated from the service after becoming 62 years of age and completing 5 years of civilian service or after becoming 60 years of age and completing 10 years of Member service is entitled to an annuity. A Member who is separated from the service after becoming 55 years of age (but before becoming 60 years of age) and completing 30 years of service is entitled to [a reduced] an annuity. A Member who is separated from the service, except by resignation or expulsion, after completing 25 years of service or after becoming 50 years of age and (1) completing 20 years of service or (2) serving in 9 Congresses is entitled to a reduced annuity.

* * * * *

§ 8340. Cost-of-living adjustment of annuities

(a) * * *

* * * * *

(c) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) An annuity (except a deferred annuity under section 8338 of this title or any other provision of law) which—

(A) is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member; and

(B) has a commencing date after the effective date of the then last preceding annuity increase under subsection (b) of this section;

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under subsection (b) of this section. In the administration of this paragraph, an employee or a deceased employee shall be deemed, for the purposes of section 8339(n) of this title, to have to his credit, on the effective date of the then last preceding annuity increase under subsection (b) of this section, a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the service.

(2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (except a child entitled under section 8341(e) of this title), which annuity commences the day after the death of the annuitant and after the effective date of the first increase under this section, shall be increased by the total percent increase the annuitant was receiving under this section at death. However, the increase in a survivor annuity authorized by section 8 of the Act of May 29, 1930, as amended to July 6, 1950, shall be computed as if the annuity commencing date had been the effective date of the first increase under this section.

(3) For the purpose of computing the annuity of a child under section 8341(e) of this title that commences [on or after the first day of the first month that begins on or after the date of enactment of the Civil Service Retirement Amendments of 1969] after October 31, 1969, the items \$900, \$1,080, \$2,700, and \$3,240 appearing in section 8341(e) of this title shall be increased by the total percent increases allowed and in force under this section on or after such day and, in case of a deceased annuitant, the items 60 percent and 75 percent appearing in section 8341(e) of this title shall be increased by the total percent allowed and in force to the annuitant under this section on or after such day.

* * * * *

§ 4311. Survivor annuities

(a) * * *

* * * * *

(c) The annuity of a survivor named under section 8339(k) (1) of this title is 55 percent of the reduced annuity of the retired employee

or Member. The annuity of the survivor commences on the day after the retired employee or Member dies. This annuity and the right thereto terminate on the last day of the month before the survivor dies.

* * * * *

§ 8345. **Payment of benefits; commencement, termination, and waiver of annuity**

* * * * *

(a) * * *

* * * * *

[(g)] (h) (1) *No payment shall be made from the Fund unless application for benefits based on the service of an employee or Member is received in the Civil Service Commission before the one hundred and fifteenth anniversary of his birth.*

(2) *Notwithstanding paragraph (1) of this subsection, after the death of an employee, Member, or annuitant, no benefit based on his service shall be paid from the Fund unless an application therefor is received in the Civil Service Commission within 30 years after the death or other event which gives rise to title to the benefit.*

* * * * *

§ 8348. **Civil Service Retirement and Disability Fund**

(a) * * *

* * * * *

(h) (1) Notwithstanding any other statute, the United States Postal Services shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to active and retired Postal Service officers and employees, and to their survivors, when the increase results from an employee-management agreement under title 39, or any administrative action by the Postal Service taken pursuant to law, which authorizes increases in pay on which benefits are computed.

(2) The estimated increase in the unfunded liability, referred to in paragraph (1) of this subsection, shall be determined by the Civil Service Commission. The United States Postal Service shall pay the amount so determined to the Commission in [thirty] 30 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the fiscal year in which an increase in pay becomes effective.

Chapter 85—UNEMPLOYMENT COMPENSATION

SUBCHAPTER I—EMPLOYEES GENERALLY

SEC.

8501. Definitions.
 8502. Compensation under State agreement.
 8503. Compensation absent State agreement.
 8504. Assignment of Federal service and wages.
 8505. Payments to States.
 8506. Dissemination of information.
 8507. False statements and misrepresentations.
 8508. Regulations.

SUBCHAPTER II—EX-SERVICEMEN

SEC.

8521. Definitions; application.
 8522. Assignment of Federal service and wages.
 8523. Dissemination of information.
 [8524. Accrued leave.] 8524. [Repealed.]
 8525. Effect on other statutes.

Chapter 89—HEALTH INSURANCE

* * * * *

§ 8902. **Contracting authority**

(a) * * *

* * * * *

(j) Each contract under this chapter shall require the carrier to agree to pay for or provide a health service or supply in an individual case if the Commission finds that the employee, annuitant, or family member is entitled thereto under the terms of the contract.

[(j)] (k) When a contract under this chapter requires payment or reimbursement for services which may be performed by a clinical psychologist or optometrist, licensed or certified as such under Federal or State law, as applicable, an employee, annuitant, or family member covered by the contract shall be free to select, and shall have direct access to, such a clinical psychologist or optometrist without supervision or referral by another health practitioner and shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. The provisions of this subsection shall not apply to group practice prepayment plans.

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Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

To amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, 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 8345 of title 5, United States Code, is amended by adding the following new subsection at the end thereof:

“(h) (1) No payment shall be made from the Fund unless an application for benefits based on the service of an employee or Member is received in the Civil Service Commission before the one hundred and fifteenth anniversary of his birth.

“(2) Notwithstanding paragraph (1) of this subsection, after the death of an employee, Member, or annuitant, no benefit based on his service shall be paid from the Fund unless an application therefor is received in the Civil Service Commission within 30 years after the death or other event which gives rise to title to the benefit.”

SEC. 2. Title 5, United States Code, is amended as follows:

(1) In section 302(b) (2) strike out “324” and insert “3702” in place thereof;

(2) In section 552a(g) (5) strike out “to the effective date of this section” and insert in lieu thereof “to September 27, 1975”;

(3) In section 2902(b) strike out “the Postmaster General,”;

(4) In section 3351 strike out “, except an appointment made under section 3311 of title 39”;

(5) In section 3363 strike out “, except an appointment made under section 3311 of title 39”;

(6) Strike out section 3364;

(7) In the analysis of chapter 33 strike out item 3364;

(8) In section 3501(b) strike out “, except an employee whose appointment is made under section 3311 to title 39”;

(9) In section 3581(5) (A) strike out “3582(a)” and insert “3582(b)” in place thereof;

(10) In the last sentence of section 3582(b) strike out “on or after the date of enactment of the Foreign Assistance Act of 1969” and insert “after December 29, 1969” in place thereof;

(11) In section 4102(a) (2) (B) strike out “(except a Postmaster)”;

(12) In section 5102(c) (5) strike out “White House Police” and insert “Executive Protective Service” in place thereof;

(13) In section 5102(c) (9) strike out “40” and insert “305” in place thereof;

(14) In section 5108(c) (11) strike out “twenty two” and insert in lieu thereof “twenty-five”;

(15) In section 5108(c) redesignate paragraphs (11) through (14) as paragraphs (11) through (16), respectively;

(16) In section 5303(c) strike out “and section 3552 of title 39”;

(17) In section 5314 redesignate paragraphs (53) through (61) as paragraphs (53) through (63), respectively;

(18) In section 5315 redesignate paragraphs (91) through (104) as paragraphs (91) through (107), respectively;

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- (19) In section 5316 redesignate paragraphs (131) through (136) as paragraphs (131) through (139), respectively;
- (20) In section 5365 strike out "(a)";
- (21) In section 5533(d)(7) strike out subparagraph (F) and redesignate subparagraphs (G) and (H) as (F) and (G), respectively;
- (22) In section 5541(2)(iv) strike out "White House Police" and insert "Executive Protective Service" in place thereof;
- (23) In the catchline of section 5545 strike out "SUNDAY,";
- (24) In the analysis of chapter 55 strike out "Sunday," in item 5545;
- (25) In section 6101(a)(4) strike out "education" and insert "educational" in place thereof;
- (26) Strike out section 6309;
- (27) In the analysis of chapter 63 strike out item 6309;
- (28) In section 6324(a) strike out "White House Police" and insert "Executive Protective Service" in place thereof;
- (29) In section 6324(b)(3) strike out "White House Police" and insert "Executive Protective Service" in place thereof;
- (30) In section 7511(1) strike out ", except an employee whose appointment is made under section 3311 of title 39";
- (31) In section 8193 redesignate subsection (e), the second time it appears, as subsection (f);
- (32) In section 8332(b)(8) strike out "on or after February 19, 1929, and prior to the effective date of section 442 of the Legislative Reorganization Act of 1970" and insert "after February 18, 1929, and before noon on January 3, 1971" in place thereof;
- (33) In section 8332(b)(9) strike out "8339(h)" and insert "8339(i)" in place thereof;
- (34) In section 8333(c)—
 - (A) strike out "of title 5" and insert "of this title" in place thereof;
 - (B) strike out "of this chapter" and insert "of this title" in place thereof;
- (35) In section 8340(c)(3) strike out "on or after the first day of the first month that begins on or after the date of enactment of the Civil Service Retirement Amendments of 1969" and insert "after October 31, 1969" in place thereof;
- (36) In section 8341(c) strike out "8339(k)" and insert "8339(k)(1)" in place thereof;
- (37) In section 8348(h)(2) strike out "thirty" and insert "30" in place thereof;
- (38) Amend section 8331(4) to read as follows:
 - "(4) 'average pay' means the largest annual rate resulting from averaging an employee's or Member's rates of basic pay in effect over any 3 consecutive years of creditable service or, in the case of an annuity under subsection (d) or (e)(1) of section 8341 of this title based on service of less than 3 years, over the total service, with each rate weighted by the time it was in effect;"

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- (39) In section 8332(b) (7) strike out “(—U.S.C.—)”;
- (40) In section 8336(d) strike out “a reduced” and insert “an” in place thereof;
- (41) In the last sentence of section 8336(g) strike out “a reduced” and insert “an” in place thereof;
- (42) In the analysis of chapter 85 strike out item 8524 and insert in lieu thereof the following:
- “8524. Repealed.
and
- (43) In section 8902 redesignate subsection (j), as added by the Act of July 30, 1974 (Public Law 93-363, 88 Stat. 398), as subsection (k).

Speaker of the House of Representatives.

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

December 22, 1975

Dear Mr. Director:

The following bills were received at the White House on December 22nd:

✓ H.J. Res. 749	✓ H.R. 8304	✓ H.R. 11184
✓ H.R. 4016	✓ H.R. 9968	✓ S.J. Res. 157
✓ H.R. 4287	✓ H.R. 10035	✓ S. 95
✓ H.R. 4573	✓ H.R. 10284	✓ S. 322
✓ H.R. 5900	✓ H.R. 10355	✓ S. 1469
✓ H.R. 6673	✓ H.R. 10727	✓ S. 2327

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