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APPROVED
OCT 18 1974

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

OCT 11 1974

MEMORANDUM FOR THE PRESIDENT

**Subject: Enrolled Bill H.R. 7135 - Federal military and
civilian personnel claims
Sponsor - Rep. Danielson (D) California**

*Posted
10/19
To Archives
10/19*

Last Day for Action

October 19, 1974 - Saturday

Purpose

Amends the Military Personnel and Civilian Employees' Claims Act of 1964 to raise to \$15,000 the ceiling on the amount of claims for personal property losses which can be settled administratively by an agency head.

Agency Recommendations

Office of Management and Budget	Approval
General Services Administration	Approval
Civil Service Commission	Approval
Department of Defense	Approval
Department of State	Approval
U. S. Information Agency	Approval

Discussion

Under the Military Personnel and Civilian Employees' Claims Act, when Federal civilian employees or military personnel suffer losses of, or damage to, their personal property incident to their Government service, the head of their agency has administrative authority to settle claims up to maximum amounts specified in the Act. Claims above the maximum must be submitted to the Court of Claims or relief may be sought through private legislation. The enrolled bill would increase the present statutory ceilings to \$15,000 for all military and civilian agencies.



Before the enactment of the Military Personnel and Civilian Employees' Claims Act, only Defense, the military departments, and the Coast Guard had administrative authority to settle personal property claims. The Act, which took effect on August 31, 1964, extended coverage to all civilian agencies as well, with a limit of \$6,500 on claims payment authority--the same limit as was then applicable to the military agencies. In 1965, the claims settlement maximum was raised to \$10,000 for the military agencies only, retroactive to August 31, 1964; in 1972 the same increase, with the same retroactive date, was enacted for foreign affairs civilian agencies (e.g. State, AID, USIA). H.R. 7135 would remove the present disparity in the claims settlement maximum between these agencies and the other civilian agencies which still have the \$6,500 maximum.

Executive branch agencies most directly concerned all reported favorably on earlier versions of the enrolled bill in light of increased costs of repairing or replacing personal property since the present statutory limits were set and the desirability of restoring a uniform government-wide limit. The bill originally contained a retroactive feature, also supported by the agencies, which was deleted; the higher ceiling in the enrolled bill would apply prospectively only.

The added cost resulting from the bill would depend on the number of claims for losses which exceed the present statutory maximums, and should not be significant.

Wilfred H. Rommel

Assistant Director for
Legislative Reference

Enclosures

APPROVED
OCT 18 1974

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day - October 19

October 17, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 7135
Federal Military and Civilian
Personnel Claims

Attached for your consideration is House bill, H.R. 7135, sponsored by Representative Danielson, which amends the Military Personnel and Civilian Employees' Claims Act of 1964, raising to \$15,000 the present statutory ceilings on the amount of claims for personal property losses which can be settled administratively by an agency head.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

We have checked with the Counsel's office (Chapman), the NSC, and Bill Timmons who also recommend approval.

RECOMMENDATION

That you sign House bill H.R. 7135 (Tab B).

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



OCT 7 1974

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

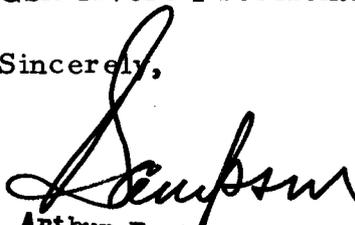
Dear Mr. Ash:

By referral dated October 4, 1974, from the Assistant Director for Legislative Reference, your office requested the views of the General Services Administration on enrolled bill H.R. 7135, 93rd Congress, an act "To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service."

The bill would raise from \$10,000 to \$15,000 in the case of military departments, and from \$6,500 to \$15,000 in the case of other agencies, the ceilings below which claims by military or civilian personnel for personal property losses may be settled administratively by agency or department heads.

GSA favors Presidential approval of the enrolled bill.

Sincerely,


Arthur F. Simpson
Administrator



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

October 8, 1974

Honorable Roy L. Ash
Director
Office of Management and Budget

Attention: Assistant Director for
Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of the Civil Service Commission on enrolled bill H.R. 7135, "To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service."

From time to time the Commission's views have been requested on proposals to increase to \$10,000 from \$6,500 the limitation for settlement of claims by civilian employees under the Military Personnel and Civilian Employees' Claims Act. The Commission has consistently supported such proposals, and has recommended that the increased ceiling be made to apply uniformly to all Federal agencies.

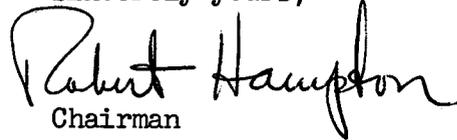
In 1965 the limitation on the claims settlement authority of the Department of Defense, the Military Departments, and the Coast Guard was increased to \$10,000 retroactive to August 31, 1964. Civilian agencies were still subject to the \$6,500 limitation. In October, 1969, the House of Representatives, 91st Congress, passed H.R. 13696 which would have increased the limitation applicable to civilian agencies to \$10,000. The Senate failed to act on this bill.

By section 106 of Public Law 92-352, the Foreign Relations Authorization Act of 1972, Congress increased to \$10,000 the limitation for the Department of State, Agency for International Development, United States Information Agency, United States Arms Control and Disarmament Agency, part of ACTION, and the Overseas Private Investment Corporation, retroactive to August 31, 1964.

The present bill, H.R. 7135, is in accord with the views and recommendations of the Commission that the ceiling be raised and that it be made equally applicable to all civilian agencies. Although the ceiling proposed is \$15,000, rather than the \$10,000 limitation contained in other proposals, the Commission fully supports the bill. The increase in the value of personal property as a result of inflation and other causes amply justifies the proposed increase of the ceiling to \$15,000. Therefore, the Commission recommends that the President sign this enrolled bill.

By direction of the Commission:

Sincerely yours,


Chairman

DEPARTMENT OF THE AIR FORCE
WASHINGTON 20330

OCT 9 1974



OFFICE OF THE SECRETARY

Dear Mr. Director:

Reference is made to your request for the views of the Department of Defense with respect to the enrolled enactment of H.R. 7135, 93rd Congress, a bill "To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service." The Secretary of Defense has delegated to the Department of the Air Force the responsibility for expressing the views of the Department of Defense.

The purpose of the enrolled bill is to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 240-243) to increase from \$10,000 to \$15,000 the amount of a claim for damage to or loss of personal property incident to service which may be paid by --

a. the Secretary of a military department, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or employee of, that department;

b. the Secretary of Transportation, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or an employee of, the Coast Guard when it is not operating as a part of the Navy;

c. the Secretary of Defense, when the claim is by a civilian employee of the Department of Defense not under the jurisdiction of a military department or the Coast Guard; or

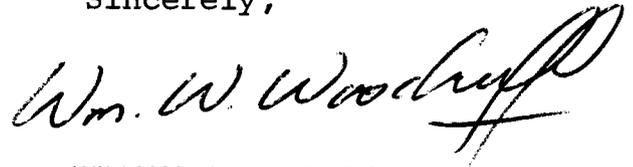
d. the head of any other agency, when a claim is made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency.

The Department of the Air Force, on behalf of the Department of Defense, recommends the approval of this enrolled bill by the President.

It is impossible to predict with certainty the impact of the legislation upon the budget of the Department of Defense.

This report has been coordinated with the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

Sincerely,

A handwritten signature in cursive script, reading "Wm. W. Woodruff". The signature is written in dark ink and is positioned to the right of the typed name.

WILLIAM W. WOODRUFF
Assistant Secretary of the Air Force
(Financial Management)

Honorable Roy L. Ash
Director
Office of Management and Budget



DEPARTMENT OF STATE

Washington, D.C. 20520

OCT 7 - 1974

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

Dear Mr. Ash:

This letter is in reply to Mr. Rommel's memorandum of October 4, requesting the views of the Department on H.R. 7135, which has been passed by the Congress.

The new limit of \$15,000 provided by the legislation, for payment of personal property losses incident to service, is necessary to provide adequate protection for our employees in view of price increases over the past years for virtually all household items. The Department therefore recommends approval of H.R. 7135.

Cordially,

A handwritten signature in black ink, appearing to read "Linwood Holton", written in a cursive style.

Linwood Holton
Assistant Secretary
for Congressional Relations

USIA
UNITED STATES
INFORMATION AGENCY
WASHINGTON 20547

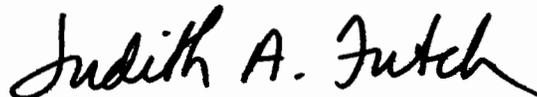
October 8, 1974

Mr. W. H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C.

Dear Mr. Rommel:

The United States Information Agency fully agrees with the amendment to the Military Personnel and Civilian Employees' Claims Act of 1964, as embodied in H. R. 7135. The Agency recommends complete support for the passage of the bill.

Respectfully,



Judith A. Futch
Assistant General Counsel

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 651

Date: October 11, 1974

Time: 3:30 p.m.

FOR ACTION: Geoff Shepard
 NSC/S
 Phil Buchen
 Bill Timmons

cc (for information): Warren K. Hendriks
Jerry Jones
Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, October 15, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 7135 - Federal military and civilian personnel claims

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Kathy Tindle - 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.: 651

Date: October 11, 1974

Time: 3:30 p.m.

FOR ACTION: ✓ Geoff Shepard
NSC/S
Phil Buchen
Bill Timmons

cc (for information): Warren K. Hendriks
Jerry Jones
Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, October 15, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 7135 - Federal military
and civilian personnel claims

ACTION REQUESTED:

___ For Necessary Action

XX For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

Approved
J.C.S.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

Warren K. Hendriks
For the President

THE WHITE HOUSE

WASHINGTON

October 14, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS *W.E. Timmons*

SUBJECT: Action Memorandum - Log No. 651
Enrolled Bill H. R. 7135 - Federal
military and civilian personnel claims

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

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 651

Date: October 11, 1974

Time: 3:30 p.m.

FOR ACTION: Geoff Shepard
 NSC/S
 Phil Buchen
 ✓ Bill Timmons

cc (for information): Warren K. Hendriks
 Jerry Jones
 Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, October 15, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 7135 - Federal military
 and civilian personnel claims

ACTION REQUESTED:

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

REMARKS:

Please return to Kathy Tindle - 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.

Warren K. Hendriks
 For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 651

Date: October 11, 1974

Time: 3:30 p.m.

FOR ACTION: Geoff Shepard
NSC/S
✓ Phil Buchen
Bill Timmons

cc (for information): Warren K. Hendriks
Jerry Jones
Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, October 15, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 7135 - Federal military
and civilian personnel claims

ACTION REQUESTED:

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

REMARKS:

Please return to Kathy Tindle - West Wing

*No objection
D.C.*

*NSC
RLC.*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

Warren K. Hendriks
For the President

ACTION

Last Day - October 19

October 17, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 7135
Federal Military and Civilian
Personnel Claims

Attached for your consideration is House bill, H.R. 7135, sponsored by Representative Danielson, which amends the Military Personnel and Civilian Employees' Claims Act of 1964, raising to \$15,000 the present statutory ceilings on the amount of claims for personal property losses which can be settled administratively by an agency head.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

We have checked with the Counsel's office (Chapman), the NSC, and Bill Timmons who also recommend approval.

RECOMMENDATION

That you sign House bill H.R. 7135 (Tab B).

Before the enactment of the Military Personnel and Civilian Employees' Claims Act, only Defense, the military departments, and the Coast Guard had administrative authority to settle personal property claims. The Act, which took effect on August 31, 1964, extended coverage to all civilian agencies as well, with a limit of \$6,500 on claims payment authority--the same limit as was then applicable to the military agencies. In 1965, the claims settlement maximum was raised to \$10,000 for the military agencies only, retroactive to August 31, 1964; in 1972 the same increase, with the same retroactive date, was enacted for foreign affairs civilian agencies (e.g. State, AID, USIA). H.R. 7135 would remove the present disparity in the claims settlement maximum between these agencies and the other civilian agencies which still have the \$6,500 maximum.

Executive branch agencies most directly concerned all reported favorably on earlier versions of the enrolled bill in light of increased costs of repairing or replacing personal property since the present statutory limits were set and the desirability of restoring a uniform government-wide limit. The bill originally contained a retroactive feature, also supported by the agencies, which was deleted; the higher ceiling in the enrolled bill would apply prospectively only.

The added cost resulting from the bill would depend on the number of claims for losses which exceed the present statutory maximums, and should not be significant.

Milfred H. Renneel

Assistant Director for
Legislative Reference

Enclosures

AMENDMENT OF THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964, AS AMENDED, WITH RESPECT TO THE SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES BY MEMBERS OF THE UNIFORMED SERVICES AND CIVILIAN OFFICERS AND EMPLOYEES FOR DAMAGE TO, OR LOSS OF, PERSONAL PROPERTY INCIDENT TO THEIR SERVICE

AUGUST 22, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

REPORT

[To accompany H.R. 7135]

The Committee on the Judiciary, to whom was referred the bill (H.R. 7135) to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service, having considered the same, reports favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

- Page 1, line 5: After "amended" insert "; 31 U.S.C. 241(a)(1)".
- Page 1, line 6: Strike "\$12,000" and insert "\$15,000".
- Page 2, line 3: After "amended", insert "; 31 U.S.C. 241(b)(1)".
- Page 2, line 7: Strike "Treasury" and insert "Transportation".
- Page 2, line 11: Strike "12,000" and insert "\$15,000".
- Page 2, lines 20 through 25, and Page 3, lines 1 through 8: Strike all of Sec. 2, and insert:

SEC. 2. The amendments provided in this Act shall apply to claims based upon losses of personal property which occur after the effective date of this Act.

And amend the title to read:

A bill to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service.

PURPOSE

The purpose of the proposed legislation, as amended, is to amend section 3 of the Military Personnel and Civilian Employees Claims Act of 1964, to increase the limit on payments for losses of personal property incident to federal service from \$10,000 to \$15,000.

STATEMENT

The Department of State and the Department of the Air Force in their reports to the Committee stated they were in favor of the amendment. A favorable report was also received from the Civil Service Commission.

The bill H.R. 7135, as amended by the Committee, would amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 240-243) to increase from \$10,000 to \$15,000 the amount of a claim for damage to or loss of personal property incident to service which may be paid by—

(a) The Secretary of a military department, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or employee of, that department;

(b) the Secretary of Transportation, when the claim is made by a member of the uniform services under the jurisdiction of, or by a civilian officer or an employee of, the Coast Guard when it is not operating as a part of the Navy; or

(c) the Secretary of Defense, when the claim is by a civilian employee of the Department of Defense not under the jurisdiction of a military department or the Coast Guard.

H.R. 7135, as amended by the Committee, would, in addition, increase to \$15,000 the amount of such a claim which may be paid by the head of any other agency, when a claim is made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency. Some of these other agencies now may pay a claim for no more than \$10,000; some only a claim for no more than \$6,500.

As to the Military Departments and the Coast Guard, the present limitation on the payment of personnel claims incident to service was established in 1965. The elements of the Department of Defense and the Coast Guard have demonstrated their ability to administer this Act, as well as the other laws authorizing payment of claims against the United States, with fairness to the claimants and concern for the protection of the public funds. Since the \$10,000 limitation was established, the cost of repairing or replacing property of the type whose loss or damage may give rise to claims within the terms and purpose of this Act has increased significantly. The increase is due primarily to the general inflationary trend which has raised the price of virtually all household items. One method of calculating increased costs of such goods is the consumer price index. According to the U.S. Bureau of Labor Statistics, the consumer price index in May 1964 was 92.7, and in May 1973 it was 131.5, an increase of 41.9 percent. If this increase is correlated with the Congressional intent in 1964, when the \$10,000 limit was established, at least \$14,190 would be required to provide the same protection today. A \$15,000 limit appears to be more

in line with the current value of such property or its repair. An increase in the limit to \$15,000 would thus serve to maintain the level of protection that was previously considered appropriate for this property by Congress as a matter of fairness, support for morale, of Government personnel. As to the Armed Forces such protection would be a further inducement for entering and continuing membership in the Armed Forces.

COST

The additional cost to the Government is not possible of exact computation since it would relate only to those cases of large loss which would exceed the present limits. An indication of the potential for such losses can be gained from the report of the Department of the Air Force which details the experience of the military services as to claims which exceeded the \$10,000 limit in the period since July 1, 1969. In that period the Army had 53 such claims, the Navy 42 and the Air Force 53. Of course such an analysis would not result in the full increase being paid in every case for only the amounts proven and recognized under applicable regulations and standards as losses subject to compensation could be paid.

The bill as originally introduced provided for a measure of retroactive effect in that it would have permitted a reconsideration of previously adjudicated claims to the extent of providing authority for the payment of proven losses which were not paid because of the previous limit for payments. It would have permitted payments up to the new limit upon application within one year of the effective date of a new law. However the committee has recommended an amendment striking this provision. It is felt that the new limit should have prospective force only.

In summary, therefore, it can be said that Section 3 of the Act now provides for a limit of \$10,000 as to the military departments and the Coast Guard in subsection (a), and in subsection (b) there is a limit of \$6,500 for civilian departments or agencies, but (as a result of a 1972 amendment) the Peace Corps, the Overseas Private Investment Corporation, State Department, AID, USIA and the U.S. Arms Control and Disarmament Agency have a \$10,000 limit.

The amended bill would provide a uniform limit of \$15,000 for all agencies and departments.

It is recommended that the amended bill be considered favorably.

CHANGES IN EXISTING LAW

In compliance with paragraph 2 of clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill 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) :

Section 3 of the Military Personnel and Civilian Employees Claims Act of 1964 as amended (Pub. L. 88-558, § 3, 78 Stat. 767, as amended; 31 U.S.C. 241).

SEC. 3. (a) (1) Under such regulations as the Secretary of a military department, or the Secretary of the Treasury with respect to the Coast Guard when it is not operating as a part of the Navy, may prescribe,

he or his designee may settle and pay a claim arising after the effective date of this Act against the United States for not more than **[\$10,000]** \$15,000 made by a member of the uniformed services under the jurisdiction of that department or the Coast Guard or by a civilian officer or employee of that department or the Coast Guard, for damage to, or loss of, personal property incident to his service. If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind. This subsection does not apply to claims settled before its enactment.

“(2) Under such regulations as the Secretary of Defense may prescribe, he or any officer designated by him has the same authority as the Secretary of a military department with respect to a claim by a civilian employee of the Department of Defense not otherwise covered by this subsection for damage to, or loss of personal property incident to, his service.

“(3) If a person named in this subsection is dead, the Secretary of the military department concerned or his designee, or the Secretary of the Treasury or his designee, or the Secretary of Defense or his designee, as the case may be, may settle and pay any claim made by the decedent’s surviving (1) spouse, (2) children, (3) father or mother, or both, or (4) brothers or sisters, or both, that arose before, concurrently with, or after the decedent’s death and is otherwise covered by this subsection. Claims of survivors shall be settled and paid in the order named.

[(b) (1) Subject to any policies the President may prescribe to effectuate the purposes of this subsection and—

“(A) under regulations the head of an agency (other than a military department, the Secretary of the Treasury with respect to the Coast Guard, the Department of Defense, or an agency or office referred to in subparagraph (B) of this paragraph) may prescribe for his agency or, in the case of ACTION, all of that part of ACTION other than the office referred to in such subparagraph, part thereof, he or his designee may settle and pay a claim arising after August 31, 1964, against the United States for not more than \$6,500 made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency or part thereof, for damage to, or loss of, personal property incident to his service; and

“(B) under regulations the Secretary of State, the Administrator for the Agency for International Development, the Director of the United States Information Agency, the Director of the United States Arms Control and Disarmament Agency, the Director of ACTION with respect to the office of ACTION engaged primarily in carrying out the Peace Corps Act, and the Board of Directors of the Overseas Private Investment Corporation, may prescribe for their agencies or, in the case of ACTION, for such office, he or his designee may settle and pay a claim arising after August 31, 1964, against the United States for not more than \$10,000 made by a civilian officer or employee of such agency or office for damage to, or loss of, personal property incident to his service.

If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind. This subsection does not apply to claims settled before August 31, 1964."

(b) Subsection (a) of this section is effective August 31, 1964. Notwithstanding section 4 of the Military Personnel and Civilian Employees' Claims Act of 1964, or any other provision of law, a claim heretofore settled in the amount of \$6,500 solely by reason of the maximum limitation established by section 3(b)(1) of such Act, may, upon written request of the claimant made within one year from the date of enactment of this Act, be reconsidered and settled under that section, as amended by subsection (a) of this section.】

(b) (1) Subject to any policies the President may prescribe to effectuate the purposes of this subsection and under such regulations as the head of an agency, other than a military department, the Secretary of the [Treasury] Transportation with respect to the Coast Guard, or the Department of Defense, may prescribe, he or his designee may settle and pay a claim arising after the effective date of this Act against the United States for not more than \$15,000 made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency, for damage to, or loss of, personal property incident to his service. If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind. This subsection does not apply to claims settled before its enactment.

(2) If a person named in this subsection is dead, the head of the agency concerned, or his designee, may settle and pay any claim made by the decedent's surviving (1) spouse, (2) children, (3) father or mother, or both, or (4) brothers or sisters, or both, that arose before, concurrently with, or after the decedent's death and is otherwise covered by this subsection. Claims of survivors shall be settled and paid in the order named.

(c) A claim may be allowed under this section for damage to, or loss of, property only if—

(1) it is presented in writing within two years after it accrues, except that if the claim accrues in time of war or in time of armed conflict in which any armed force of the United States is engaged or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after that cause ceases to exist, or two years after the war or armed conflict is terminated, whichever is earlier;

(2) it did not occur at quarters occupied by the claimant within the fifty States or the District of Columbia that were not assigned to him or otherwise provided in kind by the United States; or

(3) it was not caused wholly or partly by the negligent or wrongful act of the claimant, his agent, or his employee.

(d) For the purposes of subsection (c)(1), the dates of beginning and ending of an armed conflict are the dates established by concurrent resolution of Congress or by a determination of the President.

(e) (Repealed.)

(f) The provisions of this Act apply in respect to the damage to, or loss of, personal property incident to service of any officer or employee of the government of the District of Columbia, irrespective of whether the damage or loss occurs within or outside the District of Columbia, except that in applying such provisions in connection with the damage or loss of personal property of an officer or employee of the government of the District of Columbia, the terms "agency" and "United States" shall be held to mean the government of the District of Columbia, and the term "head of agency" shall be held to mean the Commissioner of the District of Columbia.

DEPARTMENT OF THE AIR FORCE,
Washington, April 9, 1974.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your requests for the views of the Department of Defense with respect to H.R. 5842 and H.R. 7135, both 93rd Congress, bills "To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by military personnel and civilian employees for damage to, or loss of, personal property incident to their service" and "To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service", respectively. The Secretary of Defense has delegated to the Department of the Air Force the responsibility for expressing the views of the Department of Defense.

Both H.R. 5842 and H.R. 7135 would amend the Military Personnel and Civilian Employees Claims Act of 1964, as amended (31 U.S.C. 240-243) to increase from \$10,000 to \$12,000 the amount of a claim for damage to or loss of personal property incident to service which may be paid by—

(a) the Secretary of a military department, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or employee of, that department;

(b) the Secretary of Transportation, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or an employee of, the Coast Guard when it is not operating as a part of the Navy; or

(c) the Secretary of Defense, when the claim is by a civilian employee of the Department of Defense not under the jurisdiction of a military department or the Coast Guard.

H.R. 7135 would, in addition, increase to \$12,000 the amount of such claim which may be paid by the head of any other agency, when a claim is made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency. Some of these other agencies now may pay a claim for no more than \$10,000; some only a claim for no more than \$6,500.

H.R. 5842, the proposed increase in claims payment authority would be retroactive to September 15, 1965, the date the payment authority under the predecessor statutes (10 U.S.C. 2732; 14 U.S.C. 490 (1964

ed.)) was increased from \$6,500 to \$10,000, for the purpose of reconsideration of claims previously settled in the amount of \$10,000 solely by reason of that limitation in the present Act. In H.R. 7135, the proposed increase would be retroactive to August 31, 1964, the date of enactment of the Military Personnel and Civilian Employees' Claims Act of 1964, which extended to the heads of other agencies authority to pay personnel claims similar to the authority of the Secretaries of Defense, the military departments and, at the time, Treasury with respect to the Coast Guard. In both bills, requests for reconsideration would be required to be in writing and submitted within one year from the date of the bill's enactment. This parallels a provision of the 1965 Act giving limited retroactivity to the \$10,000 maximum.

As indicated, the present limitation on the payment of personnel claims incident to service was established in 1965. The elements of the Department of Defense and the Coast Guard have demonstrated their ability to administer this Act, as well as the other laws authorizing payment of claims against the United States, with fairness to the claimants and concern for the protection of the public funds. Since the \$10,000 limitation was established, the cost of repairing or replacing property of the type whose loss or damage may give rise to claims within the terms and purpose of this Act has increased significantly. The increase is due primarily to the general inflationary trend which has raised the price of virtually all household items. One reliable method of calculating increased costs of such goods is the consumer price index. According to the U.S. Bureau of Labor Statistics, the consumer price index in May 1964 was 92.7, and in May 1973 it was 131.5, an increase of 41.9 percent. If this increase is correlated with the Congressional intent in 1964, when the \$10,000 limit was established, at least \$14,190 would be required to provide the same protection today. A \$15,000 limit appears to be more in line with the current value of such property or its repair. An increase in the limit to \$15,000 would thus serve to maintain the level of protection that was previously considered appropriate for this property by Congress as a matter of fairness, support for morale, and inducement for entering and continuing membership in the Armed Forces.

The Department of Defense therefore recommends that the increased monetary limitation as amended in section 1 of the subject bills be set at \$15,000 rather than \$12,000.

If H.R. 5842 or H.R. 7135 were enacted, there would be increased expenditure of funds for the payment of future claims and reconsidered claims within the retroactive period. The exact amount cannot be predicted with any degree of certainty but it is not expected to result in a significant increase in the budget of the Department of Defense. The only information available at this time indicates that, since July 1, 1969, the following total claims were settled under this statute for exactly \$10,000 and thus might represent claims payable in a greater amount under the proposed increased authority: Army, 53; Navy, 42; Air Force, 53.

Accordingly, the Department of the Air Force, on behalf of the Department of Defense, supports the enactment of H.R. 5842. However, the Department of the Air Force, on behalf of the Department of Defense, defers on the question of the enactment of H.R. 7135 instead of H.R. 5842 to those agencies affected by the increase in claims payment authority which is contained only in H.R. 7135.

While the Department of the Air Force, on behalf of the Department of Defense, supports the proposed increase from \$10,000 to \$12,000 or more preferably to \$15,000 in personnel claims settlement and payment authority in H.R. 5842, it considers this increase little more than an adjustment to reflect decreased purchasing power at the \$10,000 limit and believes that the increase will not prevent inequities in the future. The potential inequities are primarily caused by the fact that Government transportation and storage contracts, in accordance with the general principle of the United States to act as a self-insurer, limit the contractors' liability to minimum amounts. (Approximately 86% of the claims against the United States filed with the Air Force under this statute are claims for loss or damage to property in transit or storage where the loss or damage exceeds the contractors' liability.) It therefore seems unreasonable to expect each serviceman to supplement the contractors' liability by his own commercial insurance, especially since many servicemen cannot afford the insurance and, in some instances, the insurance is not reasonably available.

To overcome this significant absence of protection for the serviceman, it is recommended that H.R. 5842 (or H.R. 7135, should it be that bill which it is determined should be enacted, be amended to insert in section 3 of the Military Personnel and Civilian Employees' Claims Act of 1964 a subsection authorizing the appropriate Secretary, in the case of a claim in excess of \$15,000 which is considered meritorious, to pay \$15,000 and report the excess to Congress for its consideration. It is anticipated that the identical procedure would be followed in reporting a claim to Congress under this new subsection as under those existing laws.

This proposed new subsection would parallel authority in 10 U.S.C. 2733(d), 2734(d), and 32 U.S.C. 715(d) and is similar to authority in 10 U.S.C. 4802, 7622 and 9802. Payment authority on claims outside the United States settled in accordance with an international agreement is unlimited (see 10 U.S.C. 2734(a)). Similarly, the so-called Federal Tort Claims Act, except for the requirement of Attorney General approval for payments over \$25,000 and the requirement for deficiency appropriation for payments over \$100,000, provides unlimited administrative authority for claims within its coverage and in addition authorizes suits against the United States if the claimant considers the proposed administrative settlement inadequate (see 28 U.S.C. 1346(b), 2672; sec. 1302, Act of July 27, 1956, ch 748 (31 U.S.C. 724a)).

As a technical matter, for ease of reference, it is suggested that the fourth and fifth lines of page 1 of both bills be amended by striking out "78 Stat. 767 as amended by 79 Stat. 789" and inserting "31 U.S.C. 241(a)(1)" in place thereof. Similarly, it is suggested that the second and third lines of page 2 of H.R. 7135 be amended by striking out "78 Stat. 767 as amended" and inserting "31 U.S.C. 241(b)(1)" in place thereof. Finally, for completeness of description, it is suggested that "members of the uniformed services and" be inserted in the title before "civilian officers".

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

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

Sincerely,

WILLIAM W. WOODRUFF,
Assistant Secretary of the Air Force (Financial Management).

DEPARTMENT OF STATE,
Washington, D.C., April 23, 1974.

HON. PETER W. RODINO, JR.,
*Chairman, Committee on the Judiciary, House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of May 4, 1973 requesting a report on H.R. 7135, a bill to amend the Military Personnel and Civilian Employees Claims Act of 1964, as amended.

The Department and the Agency for International Development support this bill which would provide identical authority to all departments and agencies to settle claims of their employees for personal property losses incurred incident to service. The bill would increase the ceiling on the authority of defense and foreign affairs agencies to settle such claims from \$10,000 to \$12,000 and would increase the ceiling applicable to all other agencies from \$6500 to \$12,000.

Section 2 of the bill authorizes the application of this new ceiling retroactively to August 31, 1964 for all agencies except this Department and the other foreign affairs agencies as defined in section 3(b) (1) (B) of the present law, although it is our understanding that it was intended that the retroactive feature apply to all departments and agencies. Since we believe it is equitable to permit reimbursement up to the new maximum for service incurred losses regardless of whether they occurred before or after the date of enactment of the authorizing legislation, we support the retroactive application of this bill and request that the required authority be extended to the Department and other foreign affairs agencies. This could be done most simply by amending section 2 of the bill by inserting "or \$10,000" immediately after "\$6500" on line 25 of page 2 and changing "limitation" to "limitations" on line 1 of page 3.

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

Sincerely yours,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., April 10, 1974.

HON. PETER W. RODINO, JR.,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Civil Service Commission on H.R. 7135, "To amend the Mili-

tary Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service".

From time to time the Commission's views have been requested on proposals to increase to \$10,000 from \$6,500 the limitations for settlement of claims by civilian employees under the Military Personnel and Civilian Employees' Claims Act. The Commission has consistently supported such proposals, and has recommended that the increased ceiling be made to apply uniformly to all Federal agencies.

In 1965 the limitation on the claims settlement authority of the Department of Defense, the Military Departments, and the Coast Guard was increased to \$10,000 retroactive to August 31, 1964. Civilian agencies were still subject to the \$6,500 limitation. In October 1969 the House of Representatives, 91st Congress, passed H.R. 13696 which would have increased the limitation applicable to civilian agencies to \$10,000. The Senate failed to act on this bill.

By section 106 of Public Law 92-352, the Foreign Relations Authorization Act of 1972, Congress increased to \$10,000 the limitation for the Department of State, Agency for International Development, United States Information Agency, United States Arms Control and Disarmament Agency, part of Action, and the Overseas Private Investment Corporation, retroactive to August 31, 1964.

The present bill, H.R. 7135, is in accord with the views and recommendations of the Commission that the ceiling be raised and that it be made equally applicable to all civilian agencies. Although the ceiling proposed is \$12,000, rather than the \$10,000 limitation contained in other proposals, the Commission fully supports the bill. The increase in the value of personal property as a result of inflation and other causes amply justifies the proposed increase of the ceiling to \$12,000.

Section 2 of H.R. 7135 authorizes the application of the \$12,000 ceiling retroactive to August 31, 1964, for all agencies with an existing maximum limitation of \$6,500 established by section 3(b) of the Military Personnel and Civilian Employees' Claims Act. Since the limitation of the authority of the Department of State, Agency for International Development, United States Information Agency, United States Arms Control and Disarmament Agency, part of Action, and the Overseas Private Investment Corporation, was increased to \$10,000 by section 106 of Public Law 92-352, the effect of section 2 of H.R. 7135 is to create a disparity in the treatment of the employees of those agencies affected by section 106 of Public Law 92-352 since the retroactive feature will not apply to them. The Commission recommends that the retroactive feature be made uniform by adding "or \$10,000" immediately after "\$6,500" on line 25 of page 2, and substituting the plural, "limitations" for "limitation" on line 1 of page 3.

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.

Calendar No. 1144

93D CONGRESS }
2d Session }

SENATE

{ REPORT
{ No. 93-1204

AMENDMENT OF THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964

OCTOBER 1, 1974.—Ordered to be printed

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

REPORT

[To accompany H.R. 7135]

The Committee on the Judiciary, to which was referred the bill (H.R. 7135) to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to amend section 3 of the Military Personnel and Civilian Employees' Claims Act of 1964, to increase the limit on payments for losses of personal property incident to federal service from \$10,000 to \$15,000.

STATEMENT

The facts of this case, as contained in House Report number 93-1320, are as follows:

The Department of State and the Department of the Air Force in their reports to the Committee stated they were in

favor of the amendment. A favorable report was also received from the Civil Service Commission.

The bill H.R. 7135, as amended by the Committee, would amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 240-243) to increase from \$10,000 to \$15,000 the amount of a claim for damage to or loss of personal property incident to service which may be paid by—

(a) The Secretary of a military department, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or employee of, that department;

(b) the Secretary of Transportation, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or an employee of, the Coast Guard when it is not operating as a part of the Navy; or

(c) the Secretary of Defense, when the claim is by a civilian employee of the Department of Defense not under the jurisdiction of a military department or the Coast Guard.

H.R. 7135, as amended by the Committee, would, in addition, increase to \$15,000 the amount of such a claim which may be paid by the head of any other agency, when a claim is made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency. Some of these other agencies now may pay a claim for no more than \$10,000; some only a claim for no more than \$6,500.

As to the Military Departments and the Coast Guard, the present limitation on the payment of personnel claims incident to service was established in 1965. The elements of the Department of Defense and the Coast Guard have demonstrated their ability to administer this Act, as well as the other laws authorizing payment of claims against the United States, with fairness to the claimants and concern for the protection of the public funds. Since the \$10,000 limitation was established, the cost of repairing or replacing property of the type whose loss or damage may give rise to claims within the terms and purpose of this Act has increased significantly. The increase is due primarily to the general inflationary trend which has raised the price of virtually all household items. One method of calculating increased costs of such goods is the consumer price index. According to the U.S. Bureau of Labor Statistics, the consumer price index in May 1964 was 92.7, and in May 1973 it was 131.5, an increase of 41.9 percent. If this increase is correlated with the Congressional intent in 1964, when the \$10,000 limit was established, at least \$14,190 would be required to provide the same protection today. A \$15,000 limit appears to be more in line with the current value of such property or its repair. An increase in the limit to \$15,000 would thus serve to maintain the level of protection that was previously considered appropriate for this property by Congress as a matter of fair-

ness, support for morale, of Government personnel. As to the Armed Forces such protection would be a further inducement for entering and continuing membership in the Armed Forces.

Cost

The additional cost to the Government is not possible of exact computation since it would relate only to those cases of large loss which would exceed the present limits. An indication of the potential for such losses can be gained from the report of the Department of the Air Force which details the experience of the military services as to claims which exceeded the \$10,000 limit in the period since July 1, 1969. In that period the Army had 53 such claims, the Navy 42 and the Air Force 53. Of course such an analysis would not result in the full increase being paid in every case for only the amounts proven and recognized under applicable regulations and standards as losses subject to compensation could be paid.

The bill as originally introduced provided for a measure of retroactive effect in that it would have permitted a reconsideration of previously adjudicated claims to the extent of providing authority for the payment of proven losses which were not paid because of the previous limit for payments. It would have permitted payments up to the new limit upon application within one year of the effective date of a new law. However the committee has recommended an amendment striking this provision. It is felt that the new limit should have prospective force only.

In summary, therefore, it can be said that Section 3 of the Act now provides for a limit of \$10,000 as to the military departments and the Coast Guard in subsection (a), and in subsection (b) there is a limit of \$6,500 for civilian departments or agencies, but (as a result of a 1972 amendment) the Peace Corps, the Overseas Private Investment Corporation, State Department, AID, USIA and the U.S. Arms Control and Disarmament Agency have a \$10,000 limit.

The amended bill would provide a uniform limit of \$15,000 for all agencies and departments.

It is recommended that the amended bill be considered favorably.

In agreement with the views of the House of Representatives, this Committee recommends that the bill be favorably considered.

Attached to and made a part of this report are the departmental reports on this legislation.

DEPARTMENT OF THE AIR FORCE,
Washington, April 9, 1974.

HON. PETER W. RODINO, JR.,
*Chairman, Committee on the Judiciary,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your requests for the views of the Department of Defense with respect to H.R. 5842 and H.R. 7135, both 93rd Congress, bills "To amend the Military Personnel

and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by military personnel and civilian employees for damage to, or loss of, personal property incident to their service" and "To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service", respectively. The Secretary of Defense has delegated to the Department of the Air Force the responsibility for expressing the views of the Department of Defense.

Both H.R. 5842 and H.R. 7135 would amend the Military Personnel and Civilian Employees Claims Act of 1964, as amended (31 U.S.C. 240-243) to increase from \$10,000 to \$12,000 the amount of a claim for damage to or loss of personal property incident to service which may be paid by—

(a) the Secretary of a military department, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or employee of, that department;

(b) the Secretary of Transportation, when the claim is made by a member of the uniformed services under the jurisdiction of, or by a civilian officer or an employee of, the Coast Guard when it is not operating as a part of the Navy; or

(c) the Secretary of Defense, when the claim is by a civilian employee of the Department of Defense not under the jurisdiction of a military department or the Coast Guard.

H.R. 7135 would, in addition, increase to \$12,000 the amount of such claim which may be paid by the head of any other agency, when a claim is made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency. Some of these other agencies now may pay a claim for no more than \$10,000; some only a claim for no more than \$6,500.

H.R. 5842, the proposed increase in claims payment authority would be retroactive to September 15, 1965, the date the payment authority under the predecessor statutes (10 U.S.C. 2732; 14 U.S.C. 490 (1964 ed.)) was increased from \$6,500 to \$10,000, for the purpose of reconsideration of claims previously settled in the amount of \$10,000 solely by reason of that limitation in the present Act. In H.R. 7135, the proposed increase would be retroactive to August 31, 1964, the date of enactment of the Military Personnel and Civilian Employees' Claims Act of 1964, which extended to the heads of other agencies authority to pay personnel claims similar to the authority of the Secretaries of Defense, the military departments and, at the time, Treasury with respect to the Coast Guard. In both bills, requests for reconsideration would be required to be in writing and submitted within one year from the date of the bill's enactment. This parallels a provision of the 1965 Act giving limited retroactivity to the \$10,000 maximum.

As indicated, the present limitation on the payment of personnel claims incident to service was established in 1965. The elements of the Department of Defense and the Coast Guard have demonstrated their ability to administer this Act, as well as the other laws authorizing payment of claims against the United States, with fairness to the claimants and concern for the protection of the public funds. Since the \$10,000 limitation was established, the cost of repairing or replac-

ing property of the type whose loss or damage may give rise to claims within the terms and purpose of this Act has increased significantly. The increase is due primarily to the general inflationary trend which has raised the price of virtually all household items. One reliable method of calculating increased costs of such goods is the consumer price index. According to the U.S. Bureau of Labor Statistics, the consumer price index in May 1964 was 92.7, and in May 1973 it was 131.5, an increase of 41.9 percent. If this increase is correlated with the Congressional intent in 1964, when the \$10,000 limit was established, at least \$14,190 would be required to provide the same protection today. A \$15,000 limit appears to be more in line with the current value of such property or its repair. An increase in the limit to \$15,000 would thus serve to maintain the level of protection that was previously considered appropriate for this property by Congress as a matter of fairness, support for morale, and inducement for entering and continuing membership in the Armed Forces.

The Department of Defense therefore recommends that the increased monetary limitation as amended in section 1 of the subject bills be set at \$15,000 rather than \$12,000.

If H.R. 5842 or H.R. 7135 were enacted, there would be increased expenditure of funds for the payment of future claims and reconsidered claims within the retroactive period. The exact amount cannot be predicted with any degree of certainty but it is not expected to result in a significant increase in the budget of the Department of Defense. The only information available at this time indicates that, since July 1, 1969, the following total claims were settled under this statute for exactly \$10,000 and thus might represent claims payable in a greater amount under the proposed increased authority: Army, 53; Navy, 42; Air Force, 53.

Accordingly, the Department of the Air Force, on behalf of the Department of Defense, supports the enactment of H.R. 5842. However, the Department of the Air Force, on behalf of the Department of Defense, defers on the question of the enactment of H.R. 7135 instead of H.R. 5842 to those agencies affected by the increase in claims payment authority which is contained only in H.R. 7135.

While the Department of the Air Force, on behalf of the Department of Defense, supports the proposed increase from \$10,000 to \$12,000 or more preferably to \$15,000 in personnel claims settlement and payment authority in H.R. 5842, it considers this increase little more than an adjustment to reflect decreased purchasing power at the \$10,000 limit and believes that the increase will not prevent inequities in the future. The potential inequities are primarily caused by the fact that Government transportation and storage contracts, in accordance with the general principle of the United States to act as a self-insurer, limit the contractors' liability to minimum amounts. (Approximately 86% of the claims against the United States filed with the Air Force under this statute are claims for loss or damage to property in transit or storage where the loss or damage exceeds the contractors' liability.) It therefore seems unreasonable to expect each serviceman to supplement the contractors' liability by his own commercial insurance, especially since many servicemen cannot afford the insurance and, in some instances, the insurance is not reasonably available.

To overcome this significant absence of protection for the serviceman, it is recommended that H.R. 5842 (or H.R. 7135, should it be that bill which it is determined should be enacted, be amended to insert in section 3 of the Military Personnel and Civilian Employees' Claims Act of 1964 a subsection authorizing the appropriate Secretary, in the case of a claim in excess of \$15,000 which is considered meritorious, to pay \$15,000 and report the excess to Congress for its consideration. It is anticipated that the identical procedure would be followed in reporting a claim to Congress under this new subsection as under those existing laws.

This proposed new subsection would parallel authority in 10 U.S.C. 2733(d), 2734(d), and 32 U.S.C. 715(d) and is similar to authority in 10 U.S.C. 4802, 7622 and 9802. Payment authority on claims outside the United States settled in accordance with an international agreement is unlimited (see 10 U.S.C. 2734(a)). Similarly, the so-called Federal Tort Claims Act, except for the requirement of Attorney General approval for payments over \$25,000 and the requirement for deficiency appropriation for payments over \$100,000, provides unlimited administrative authority for claims within its coverage and in addition authorizes suits against the United States if the claimant considers the proposed administrative settlement inadequate (see 28 U.S.C. 1346(b), 2672; sec. 1302, Act of July 27, 1956, ch 748 (31 U.S.C. 724a)).

As a technical matter, for ease of reference, it is suggested that the fourth and fifth lines of page 1 of both bills be amended by striking out "78 Stat. 767 as amended by 79 Stat. 789" and inserting "31 U.S.C. 241(a)(1)" in place thereof. Similarly, it is suggested that the second and third lines of page 2 of H.R. 7135 be amended by striking out "78 Stat. 767 as amended" and inserting "31 U.S.C. 241(b)(1)" in place thereof. Finally, for completeness of description, it is suggested that "members of the uniformed services and" be inserted in the title before "civilian officers".

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

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

Sincerely,

WILLIAM W. WOODRUFF,

Assistant Secretary of the Air Force (Financial Management).

DEPARTMENT OF STATE,
Washington, D.C., April 23, 1974.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of May 4, 1973 requesting a report on H.R. 7135, a bill to amend the Military Personnel and Civilian Employees Claims Act of 1964, as amended.

The Department and the Agency for International Development support this bill which would provide identical authority to all departments and agencies to settle claims of their employees for personal property losses incurred incident to service. The bill would increase

the ceiling on the authority of defense and foreign affairs agencies to settle such claims from \$10,000 to \$12,000 and would increase the ceiling applicable to all other agencies from \$6500 to \$12,000.

Section 2 of the bill authorizes the application of this new ceiling retroactively to August 31, 1964 for all agencies except this Department and the other foreign affairs agencies as defined in section 3(b) (1)(B) of the present law, although it is our understanding that it was intended that the retroactive feature apply to all departments and agencies. Since we believe it is equitable to permit reimbursement up to the new maximum for service incurred losses regardless of whether they occurred before or after the date of enactment of the authorizing legislation, we support the retroactive application of this bill and request that the required authority be extended to the Department and other foreign affairs agencies. This could be done most simply by amending section 2 of the bill by inserting "or \$10,000" immediately after "\$6500" on line 25 of page 2 and changing "limitation" to "limitations" on line 1 of page 3.

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

Sincerely yours,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., April 10, 1974.

HON. PETER W. RODINO, JR.,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Civil Service Commission on H.R. 7135, "To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service".

From time to time the Commission's views have been requested on proposals to increase to \$10,000 from \$6,500 the limitations for settlement of claims by civilian employees under the Military Personnel and Civilian Employees' Claims Act. The Commission has consistently supported such proposals, and has recommended that the increased ceiling be made to apply uniformly to all Federal agencies.

In 1965 the limitation on the claims settlement authority of the Department of Defense, the Military Departments, and the Coast Guard was increased to \$10,000 retroactive to August 31, 1964. Civilian agencies were still subject to the \$6,500 limitation. In October 1969 the House of Representatives, 91st Congress, passed H.R. 13696 which would have increased the limitation applicable to civilian agencies to \$10,000. The Senate failed to act on this bill.

By section 106 of Public Law 92-352, the Foreign Relations Authorization Act of 1972, Congress increased to \$10,000 the limitation for the Department of State, Agency for International Development,

United States Information Agency, United States Arms Control and Disarmament Agency, part of Action, and the Overseas Private Investment Corporation, retroactive to August 31, 1964.

The present bill, H.R. 7135, is in accord with the views and recommendations of the Commission that the ceiling be raised and that it be made equally applicable to all civilian agencies. Although the ceiling proposed is \$12,000, rather than the \$10,000 limitation contained in other proposals, the Commission fully supports the bill. The increase in the value of personal property as a result of inflation and other causes amply justifies the proposed increase of the ceiling to \$12,000.

Section 2 of H.R. 7135 authorizes the application of the \$12,000 ceiling retroactive to August 31, 1964, for all agencies with an existing maximum limitation of \$6,500 established by section 3(b) of the Military Personnel and Civilian Employees' Claims Act. Since the limitation of the authority of the Department of State, Agency for International Development, United States Information Agency, United States Arms Control and Disarmament Agency, part of Action, and the Overseas Private Investment Corporation, was increased to \$10,000 by section 106 of Public Law 92-352, the effect of section 2 of H.R. 7135 is to create a disparity in the treatment of the employees of those agencies affected by section 106 of Public Law 92-352 since the retroactive feature will not apply to them. The Commission recommends that the retroactive feature be made uniform by adding "or \$10,000" immediately after "\$6,500" on line 25 of page 2, and substituting the plural, "limitations" for "limitation" on line 1 of page 3.

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.

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 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 31, UNITED STATES CODE

CHAPTER 6. DEBTS DUE BY, OR TO, THE UNITED STATES

* * * * *

§ 241. Same; payments.

(a) Authority of heads of military departments and Secretary of the Treasury; claims by members of uniformed services; limitation; replacement of property in kind; authority of Department of Defense over claims of civilian employees; payments to survivors.

(1) Under such regulations as the Secretary of a military department, or the Secretary of the Treasury with respect to the Coast Guard

when it is not operating as a part of the Navy, may prescribe, he or his designee may settle and pay a claim arising after August 31, 1964, against the United States for not more than **[\$10,000]** \$15,000 made by a member of the uniformed services under the jurisdiction of that department or the Coast Guard or by a civilian officer or employee of that department or the Coast Guard, for damage to, or loss of, personal property incident to his service. If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind. This subsection does not apply to claims settled before August 31, 1964.

* * * * *

(b) Members of non-military departments; limitations; replacement of property in kind; payments to survivors.

[(1) Subject to any policies the President may prescribe to effectuate the purposes of this subsection and under such regulations as the head of an agency, other than a military department, the Secretary of the Treasury with respect to the Coast Guard, or the Department of Defense, may prescribe, he or his designee may settle and pay a claim arising after the effective date of this Act against the United States for not more than \$6,500 made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency for damage to, or loss of, personal property incident to his service. If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind. This subsection does not apply to claims settled before its enactment.]

(1) Subject to any policies the President may prescribe to effectuate the purposes of this subsection and under such regulations as the head of an agency, other than a military department, the Secretary of Transportation with respect to the Coast Guard, or the Department of Defense, may prescribe, he or his designee may settle and pay a claim arising after the effective date of this Act against the United States for not more than \$15,000 made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency, for damage to, or loss of, personal property incident to his service. If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind. This subsection does not apply to claims settled before its enactment.

○

H. R. 7135

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

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

An Act

To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(a)(1) of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (78 Stat. 767, as amended; 31 U.S.C. 241(a)(1)), is amended by striking out "\$10,000" and inserting in place thereof "\$15,000", and

(b) Section 3(b)(1) of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (78 Stat. 767, as amended; 31 U.S.C. 241(b)(1)), is amended to read as follows:

"(b)(1) Subject to any policies the President may prescribe to effectuate the purposes of this subsection and under such regulations as the head of an agency, other than a military department, the Secretary of Transportation with respect to the Coast Guard, or the Department of Defense, may prescribe, he or his designee may settle and pay a claim arising after the effective date of this Act against the United States for not more than \$15,000 made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency, for damage to, or loss of, personal property incident to his service. If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind. This subsection does not apply to claims settled before its enactment."

SEC. 2. The amendments provided in this Act shall apply to claims based upon losses of personal property which occur after the effective date of this Act.

Speaker of the House of Representatives.

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

October 8, 1974

Dear Mr. Director:

The following bills were received at the White House on October 8th:

- | | |
|-------------|--------------|
| S. 283 ✓ | H.R. 6202 ✓ |
| S. 634 ✓ | H.R. 6477 ✓ |
| S. 2001 ✓ | H.R. 7135 ✓ |
| H.R. 3532 ✓ | H.R. 12471 ✓ |
| H.R. 5641 ✓ | |

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

Sincerely,

Robert D. Linder
Chief Executive Clerk

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

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 11 1974

To Warren Handwritten
10-11-74
1:15 p.m.

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7135 - Federal military and
civilian personnel claims
Sponsor - Rep. Danielson (D) California

Last Day for Action

October 19, 1974 - Saturday

Purpose

Amends the Military Personnel and Civilian Employees' Claims Act of 1964 to raise to \$15,000 the ceiling on the amount of claims for personal property losses which can be settled administratively by an agency head.

Agency Recommendations

Office of Management and Budget	Approval
General Services Administration	Approval
Civil Service Commission	Approval
Department of Defense	Approval
Department of State	Approval
U. S. Information Agency	Approval

Discussion

Under the Military Personnel and Civilian Employees' Claims Act, when Federal civilian employees or military personnel suffer losses of, or damage to, their personal property incident to their Government service, the head of their agency has administrative authority to settle claims up to maximum amounts specified in the Act. Claims above the maximum must be submitted to the Court of Claims or relief may be sought through private legislation. The enrolled bill would increase the present statutory ceilings to \$15,000 for all military and civilian agencies.