

**The original documents are located in Box 1, folder “8/12/74 HR5094 Upgrading of Deputy United States Marshals (Vetoed) (2)” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.**

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ACTION MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

*RUSH rec'd 8/8 9:50 AM*  
LOG NO.: 497

Date: August 8, 1974

Time: 9:30 a. m.

FOR ACTION: ✓ Geoff Shepard  
Fred Buzhardt  
Bill Timmons

cc (for information): Warren K. Hendriks  
Jerry Jones  
Dave Gergen

FROM THE STAFF SECRETARY

DUE: Date: Thursday, August 8, 1974

Time: 2:00 p. m.

SUBJECT: Enrolled Bill H. R. 5094 - Upgrading of Deputy United States Marshals

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

*concur in memo  
GCS  
8/8*



**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

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

AUG 7 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 5094 - Upgrading of Deputy  
United States Marshals  
Sponsor - Rep. Udall (D) Arizona and 13 others

Last Day for Action

August 12, 1974 - Monday

Purpose

Upgrades nonsupervisory deputy United States marshal positions by one, two and three grades.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto message attached)
Department of Justice	Disapproval (Veto message attached)
Civil Service Commission	Disapproval (Veto message attached)

Discussion

H.R. 5094 is substantially similar to the deputy marshal upgrading bill passed in the 92nd Congress, H.R. 13895, which you pocket vetoed October 27, 1972. It has the effect of exempting deputy U.S. marshals from the job evaluation standards and controls of the General Schedule pay system, although--unlike the vetoed bill--nominal coverage under that system would be retained. In another respect, however, the bill is even more objectionable than the vetoed bill because of its discriminatory "grade conversion" provisions described below.

Under existing law, salaries for deputy United States marshals are fixed under the General Schedule (GS) classification and pay system which governs the pay of some 1.2 million Federal

white collar employees, including other law enforcement employees in the Justice Department and elsewhere throughout the Government.

Prior to June 15, 1973, deputy marshals were classified at grade levels GS-6 through GS-9, with GS-8 as the typical journeyman level. They were promoted at one-grade intervals. Special deputy positions existed at GS-4 and GS-5 to provide employment opportunities for Vietnam veterans with inadequate or insufficient law enforcement training or experience to qualify at the entry level.

On June 15, 1973, the Civil Service Commission issued new standards for the deputy marshal occupation as a result of a full-scale study. The new standards recognize the expanded duties and responsibilities imposed on the Marshal Service and accord deputy marshals classification and pay treatment which is consistent with that of other Federal employees. Under this system, the deputy marshal occupation is classified at grade levels GS-5 through GS-9 and structured to provide a two-grade interval progression for promotion, i.e., GS-5, GS-7, and GS-9, with GS-9 as the full journeyman level. GS-4 was retained as the special rate for trainees and veterans, and GS-5 as the entry level for more qualified candidates.

As a result of the new standards, large scale upgradings have occurred. For example, Justice states that prior to the application of the June 15, 1973 standard, 429 deputy marshals were in grade GS-9 whereas now 949 are in that grade. Positions not upgraded were carefully evaluated and found to be properly classified at existing levels.

H.R. 5094 would legislate changes in the pay structure for some 1,300 nonsupervisory deputy marshals, based on a reconstruction of the grades and steps they were in prior to CSC's 1973 reclassification, as follows:

-- The classification structure administratively defined by the CSC would be fixed in statute and revised so that GS-5 would be used as a trainee level only, and GS-11, rather than GS-9, would become the full journeyman level. The GS-4 sub-entry level would be eliminated.

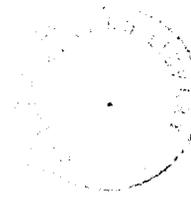
-- Deputies in GS-4, GS-5, GS-7, and GS-9 would be advanced to GS-5, GS-7, GS-9 and GS-11, respectively. These persons would be converted to the same step rates of the higher grades as those they now have in their present grades.

-- "Grade conversion" provisions in the bill would require that persons who occupied positions at GS-6 and GS-8 would be advanced to three different grades, GS-7, GS-9, or GS-11, solely on the basis of their previous step rate. Those in step 7 or below of their reconstructed grades would advance to the next grade; those in higher steps would advance three grades.

During congressional consideration of H.R. 5094, the Justice Department, CSC and OMB strongly opposed enactment, and threatened veto as unwarranted and discriminatory.

#### Arguments for Approval

1. It is argued that CSC's 1973 action in reclassifying deputy marshal positions is insufficient in view of the expanded duties and responsibilities imposed in recent years on marshals, as a result of their increasing role in crime control, urban strife, air piracy and other law enforcement activities. The House Committee states that the revision failed to upgrade deputy marshals to the pay status they deserve.
2. In the House debate, a comparison was drawn between the starting salary of \$10,000 for D.C. Police privates, and \$6,882, then the sub-entry GS-4 rate for deputy marshal trainees. The GS-5 trainee rate which would be provided in the enrolled bill is currently \$8,055 and the GS-7 rate is \$9,969.
3. Despite veto of the predecessor bill, and the strong opposition of the executive branch, there is strong congressional support for H.R. 5094, as evidenced by the House vote of 319-84 and passage in the Senate by voice vote.
4. The upgrading of deputy marshals which has already occurred as a result of CSC's new classification standards reduces the number of upgradings under the enrolled bill, so that its budget impact would be minimal.



Arguments for Disapproval.

1. H.R. 5094 is contrary to the most fundamental principles of position classification and pay administration. Preferential upgrading for deputy marshals, regardless of duties or of the relationship of such work to other Federal occupations, subverts the principle of equal pay for equal work which is the basis for the Federal pay system.
2. The proposed pay increases for marshals would blatantly discriminate against the other 1.2 million Federal employees under the General Schedule system, and most particularly against those other law enforcement employees, such as border patrol and correctional officers, whose pay grades have been carefully aligned with those of deputy marshals.
3. Legislative job classification for deputy marshals will become a direct precedent for other occupational groups-- firefighters, building guards, special police groups, et al-- to demand equal special pay treatment in Congress. While the immediate impact of this legislation will be on law enforcement groups within the Department of Justice, pressure for statutory upgrading can be expected from all professional and occupational categories, with substantial potential budgetary cost if successful.
4. CSC states that continued congressional upgrading will eventually dismantle the whole position classification system, and the result will be "a hodgepodge of irrational misalignments," based entirely on the amount of pressure each group can bring to bear.
5. The special employment program for Vietnam veterans in the Marshal Service would have to be reduced, because the bill eliminates the existing sub-entry level GS-4 position used to employ veterans who lack sufficient education and experience to qualify for GS-5.
6. The grade conversion features of the bill would create irrational pay disparities within the Marshal Service itself. The bill mandates highly irregular rules for the initial promotion to grade and to step within grade, with the result that persons now performing identical work will be placed in different grades, and those within the same grade will receive unjustified differentials in pay. Additional upgradings may well be required to remedy the pay distortions the bill legislates.

7. Deputy marshals cannot fairly be compared with city policemen, however important, valuable or dangerous their work may be. The fact that D.C. Metropolitan Police receive higher pay than marshals, cited as justification for H.R. 5094, is not valid grounds for the upgrading this bill provides. CSC emphasizes the fact that GS-11 is simply not warranted as the journeyman level for deputy marshal work, especially when compared with the demands of investigative positions classified at the same grade.

#### Recommendations

Justice recommends against approval of H.R. 5094, and expresses particular concern for "...the chain reaction effect that undoubtedly will follow if H.R. 5094 becomes law." The Department also states:

"...we believe that legislation of this type is totally unwarranted and unnecessary and that enactment of H.R. 5094 would irreparably harm the Federal compensation system."

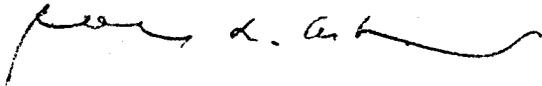
CSC strongly opposes the bill and urges disapproval, citing "the very serious potential dangers of this sort of legislation". The Commission also states:

"We are convinced that a large number of occupational pressure groups are watching the progress of H.R. 5094 with great interest. If it is approved we expect them to move immediately in the same direction. The eventual result could be the scrapping of the classification system, and the piecemeal establishment by Congress of every grade and every step for every separate occupation in the Federal service."

OMB concurs with Justice and CSC and strongly recommends disapproval. Both agencies have prepared draft veto messages and we have also prepared a draft for your consideration, drawing on the CSC draft.

We are giving consideration as to whether or not it would be desirable to include in the veto message reference to certain other objectionable personnel bills which are pending in the

Congress, and will be in touch with your staff on this matter.

A handwritten signature in cursive script, appearing to read "J. Edgar Hoover".

Director

Enclosures

Department of Justice  
Washington, D.C. 20530

AUG 2 1974

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

Dear Mr. Ash:

In compliance with your request, I have examined a facsimile of the enrolled bill, H.R. 5094, a bill "To amend title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes."

Positions of deputy United States marshal now are graded under the general position classification and pay plan established by the Congress in chapter 51 of title 5, United States Code, to provide sound and equitable grade and pay relationships among white collar positions throughout the Government. Under this plan, the Civil Service Commission prepares Government-wide standards which define the different grades in terms of the duties, responsibilities and qualification requirements of the positions, and the Department of Justice fixes the grades and pay of its positions in accordance with these standards. Significantly, this plan permits the Department of Justice to base decisions to promote employees on two fundamental considerations: (1) is there work of the higher grade to be performed?, and (2) are the employees qualified to perform the higher level of work? These are management prerogatives essential to the effective and economical administration of a large and diversified work force.

H.R. 5094 would, on the other hand, fix the grades and pay of deputy marshal positions arbitrarily by statute rather than permit their evaluation under the carefully structured position classification system applicable to the positions of most other white collar Federal employees. Moreover, it would legislate a promotion system based on seniority which would require the Attorney General to promote each deputy marshal year after year until he reached the top non-supervisory grade of GS-11 whether or not there was GS-11 level work to be done by that employee.

Not to be overlooked, of course, is the chain reaction effect that undoubtedly will follow if H. R. 5094 becomes law. How long will the same union which represents many deputy marshals wait to seek similar legislation for border patrol agents and correctional officers, whose grades traditionally have been carefully aligned with those of deputy marshals? Already the Immigration and Naturalization Service has asked the Acting Assistant Attorney General for Administration to seek Civil Service Commission revision of the position classification standard for border patrol agent positions giving as one basis for this the recent upgrading of deputy marshal positions under the June 15, 1973 standard cited in H. R. 5094.

Another objectionable feature of H. R. 5094 is the cost which would be both exorbitant and inflationary. First year costs are estimated to be \$2 million; costs in succeeding years would have to be determined on an individual basis, but obviously would be substantial.

In summary, we consider that deputy marshals have been treated fairly under the existing system. For example, it should be noted that prior to application of the June 15, 1973 standard, 429 deputy marshals were in grade GS-9, whereas now 949 are in that grade. For the reasons stated above, we believe that legislation of this type is totally unwarranted and unnecessary and that enactment of H. R. 5094 would irreparably harm the Federal compensation system. Similar legislation, H. R. 13895 of the 92nd Congress, was disapproved by President Nixon last year because of the highly preferential treatment it would have accorded deputy marshals.

The Department of Justice recommends against Executive approval of this bill.

A proposed veto message is enclosed.

Sincerely,



W. Vincent Rakestraw  
Assistant Attorney General



## MEMORANDUM OF DISAPPROVAL

I have before me H.R. 5094, a bill "To amend Title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes." This bill would remove deputy marshals from the General Schedule system and raise their pay by as much as 24 percent. While I fully recognize the complexity and importance of the work that is performed by our deputy United States marshals, I have had to decide not to approve this bill.

The General Schedule classification and pay system provides for the equitable compensation of more than 1.2 million Federal employees, including deputy United States marshals and employees in other law enforcement occupations with responsibilities similar to those of deputy United States marshals. A bill such as H.R. 5094, which would classify positions by statute rather than by an evaluation of the work performed, defeats the basic principle of equal pay for equal work, and is unfair to all the other General Schedule employees whose positions would continue to be classified in accordance with accepted classification principles.

The Civil Service Commission, working with the Department of Justice, recently revised the classification standard for the deputy marshal occupation in recognition of the increasing responsibilities of the work they perform. I understand that, as a result of this,

all positions are now classified in accordance with the new Civil Service Commission standards, and a substantial number of deputy marshals have been appropriately upgraded.

This Administration is vitally concerned that we do everything we can to win the battle against inflation by holding the line on wage increases that are excessive. The increases afforded deputy United States marshals as a result of the revised Civil Service Commission standard provided an equitable level of pay for these vital employees in relation to other Federal employees.





UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

August 2, 1974

Honorable Roy L. Ash  
Director  
Office of Management and Budget

Attention: Assistant Director for Legislative  
Reference

Dear Mr. Ash:

This is in response to your request for the Commission's views and recommendation on enrolled bill H.R. 5094, an enrolled bill "To amend title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes."

This measure legislates grades for deputy U.S. marshals, placing them in grades on the basis of the grade and step they were in prior to June 1973, regardless of their duties or the relationship of deputy marshal work to the work of other Federal occupations. The bill effectively establishes GS-11 as the full performance grade for deputy marshal work, and eliminates the possibility of a GS-4 entry level. The Civil Service Commission strongly opposes this highly preferential measure and urges that it be disapproved. The bill:

- is contrary to the most fundamental principles of position classification and pay administration;
- would subvert the statutory principle of equal pay for equal work, creating inequities between deputy U.S. marshals and the other 1.2 million Federal employees under the General Schedule (especially those in other law enforcement occupations);
- would place deputy marshals performing identical work in different grades;
- would establish completely irrational pay differentials between deputy marshals in the same grade; and
- would stop the present practice of employing veterans under special programs starting at the GS-4 level when those veterans do not meet the qualification requirements for the GS-5 level.

This enrolled bill is very similar to a previous bill, H.R. 13895, which was passed by the 92nd Congress but disapproved by the President. Among the arguments for H.R. 13895 was the contention that the Civil Service Commission standards for this occupation were not up to date, and did not provide appropriate grades for deputy marshal work. Since that time, the Civil Service Commission has completed an occupational study of the deputy marshal occupation. The study found that the occupation needed substantial restructuring, including a change from a one to a two-grade interval progression for promotions, and an increase in the typical journeyman level from the GS-8 to the GS-9 level. Those changes in the occupation were carried out through the approval, in June 1973, of new qualification and classification standards for the occupation.

One of the specific findings of the occupational study was that the GS-11 level is simply not warranted for the typical journeyman position in the Marshals Service. The study included, for example, a comparison of deputy marshal and investigative positions. The Commission's standard for investigative positions shows that GS-11 investigators are responsible for the independent handling of an entire case. The characteristics and specific examples given in the standards for investigative positions indicate that the full performance level of deputy marshals does not match the GS-11 level. Deputy marshals are almost exclusively limited to one aspect of the cases described at this level, i.e. location and apprehension of the subject. Seizure of property is also limited in scope. There is no need to establish any case concerning the property. The deputy identifies, seizes, and protects the property. The rest of the case relating to the property is the concern of others. To place these positions at the GS-11 level would therefore be in conflict with the principle of equal pay for equal work.

That principle would be even more blatantly violated by the grade conversion provisions of H.R. 5094. Those provisions would place deputies performing identical work in different grades by assigning grades based on the previous within-grade (pay) step held by each deputy. Since large scale upgradings have occurred by application of the new standard since June, the bill has now been amended to prevent a "double-jump." If a marshal has been upgraded under the new standard, the bill requires the Department of Justice to determine where he was prior to this upgrading, and move him from that point to the grade and step specified by the peculiar advancement formula provided by the bill.

The formula ignores the fact that grade level alone reflects the level of work, while the pay step reflects longevity. The bill would in some instances force the Department of Justice to upgrade deputy marshals to a particular grade based on their previous step. As an example, two marshals doing identical work have been advanced to GS-9

under the new standard. The bill passes. The Department of Justice determines that last June one was in step 7 of GS-8 while the other (because of longer service) was in step 8 of the same grade. The bill advances the more senior to GS-11 (for which he is clearly not qualified) with an increase of \$68 a year. The more junior remains in GS-9 but with an increase of \$1624 a year. One gets an unwarranted two-grade promotion; the other gets an unwarranted four-step salary increase; the more junior now earns \$1150 a year more than his co-worker with longer service; and they are still doing identical jobs.

Under the new standard, we now have about 800 marshals in GS-9, all working at the same level--doing essentially the same job. H.R. 5094 would leave half of them in GS-9 but move the other half to GS-11. The 400 left in the correct grade will surely file appeals. The bill makes no pretense at equity; it openly establishes inequity.

Clearly, the establishment of the principle that a whole occupation can be inequitably upgraded by preferential legislation--if its lobby is vocal enough--is simply the thin edge of the wedge leading to the dismantling of our whole position classification system. Obviously, all employees would like to be in higher grades. If the deputy marshals succeed in getting preferential treatment, we would expect the policeman to try the same tactic; if they are successful, then the firefighters, then the correctional officers, then the translators, then the IRS officers, and so forth, until eventually the whole classification structure is a hodgepodge of irrational misalignments. Then the marshals, having seen their preferential position eroded by the success of other groups, would be ready to start the process over again with a special bill to raise them to GS-12.

We are convinced that a large number of occupational pressure groups are watching the progress of H.R. 5094 with great interest. If it is approved, we expect them to move immediately in the same direction. The eventual result could be the scrapping of the classification system, and the piecemeal establishment by Congress of every grade and every step for every separate occupation in the Federal Service.

The bill would also reduce the hiring of veterans by the U.S. Marshal Service. The Service has encouraged the hiring of veterans through the Veterans Readjustment Act by filling positions below the normal trainee level. This practice has permitted the hiring and training of veterans who could not meet all of the normal entry requirements. H.R. 5094 would stop this and similar programs by failing to provide for the possible filling of positions below the GS-5 level.

In view of these problems, and the very serious potential dangers of this sort of legislation, the Civil Service Commission urges that the President disapprove H.R. 5094. A proposed veto message is enclosed.

By direction of the Commission:

Sincerely yours,

Jayne B Spain  
Acting  
Chairman

Enclosure

TO THE HOUSE OF REPRESENTATIVES

I am returning to Congress without my approval H. R. 5094, an enactment "To amend title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes".

This enactment would violate fundamental principles of fairness, creating serious pay inequities between deputy United States marshals and other Federal law enforcement personnel. Even more illogically, it would create severe disruption of existing grade and pay relationships among the deputy marshals themselves - extending so far in some cases as to place more junior marshals in pay rates as much as \$1,150 above more senior coworkers who now, properly, are at a relatively higher rate. Some deputies doing identical work would be placed in different pay grades, and deputies doing different work would be placed in the same pay grade.

The enactment would run directly counter to the principle of equal pay for equal work. I find no basis for granting this small group such highly preferential treatment. Our policy must be, and is, to provide equitable salaries for all Federal employees. The proposed legislation violates that policy.

The action I am taking today in no way reflects on my appreciation of these employees. Their work is obviously important, but approval of this legislation would give this one small group an unwarranted advantage over other groups of equally dedicated employees.

Accordingly, I am constrained to disapprove enactment of H.R. 5094.

THE WHITE HOUSE

TO THE HOUSE OF REPRESENTATIVES

I am returning without my approval, H.R. 5094, a bill which would raise the pay of deputy United States marshals by as much as 24 percent through comprehensive, across-the-board upgrading.

This bill is similar to H.R. 13895 which I disapproved on October 27, 1972.

I am disapproving H.R. 5094 because it violates fundamental principles of fairness. It would place deputy marshal positions in salary ranges that would value such work at higher levels than the General Schedule provides for other work of comparable difficulty, despite the fact that the Civil Service Commission has already taken action to remedy any inequities which may have existed.

Even worse, it would create severe disruption of existing grade and pay relationships among the deputy marshals themselves--extending so far in some cases as to call for paying junior marshals as much as \$1,150 above more senior coworkers. Some deputies doing identical work would be placed in different pay grades, and deputies doing different work would be placed in the same pay grade. The bill could also markedly reduce the present special hiring program for veterans who wish to become deputy marshals and thus run counter to our efforts to enhance employment for Vietnam veterans.

H.R. 5094 runs directly counter to the principle of equal pay for equal work. Our policy must be, and is, to provide equitable salaries for all Federal employees. I find no basis for granting one small group highly preferential treatment.

Approval of the proposed statutory pay plan, in addition to being inherently unfair, would also serve as a precedent for other occupational groups to seek favored treatment in the Congress. The result could be a welter of costly, irrational pay systems, which would undermine the classification principles which are at the heart of the Government's merit system.

My action in disapproving this bill in no way reflects on the very high regard I have for the outstanding men and women who carry out the important work of deputy marshals. Approval of this bill, however, would give these employees a wholly unwarranted advantage over many other groups of equally devoted Federal employees who also perform valuable service.

I am also disturbed with this bill in that it represents another in a series of congressional actions to pass a myriad of unwarranted legislation often requiring unbudgeted increases in Federal expenditures. The result invariably is that cumulative and subsequently uncontrollable increases occur in many areas including unwarranted liberalizations in Federal personnel benefits.

Over the past two years, legislation passed by the Congress has increased the unfunded liability costs of the Federal employees retirement system by \$2 billion. These actions will increase outlays in the next fiscal year by \$300 million. Other benefit bills still pending before Congress would create an additional unfunded liability of about \$20 billion and would further increase 1976 budget outlays by \$850 million. These bills would be directly counter to our present efforts

to reduce the level of Federal spending and to submit a balanced budget for fiscal year 1976. They would fuel inflation precisely when all sectors of the economy must exercise strict restraint.

It is most important to our Nation to have adequately paid and motivated Federal employees. Nevertheless, Congress cannot justifiably continue to pass legislation which is not fiscally responsible. If we are to deal successfully with inflation, the Federal Government as the Nation's largest single employer must take the lead. If we expect restraint in the private sector on wage and price demands we must exercise even greater restraint in the Government.

I urge the Congress to join me in the fight against inflation which is our Nation's number one domestic problem. I would hope that Congress will exercise responsibility in considering further legislation benefiting Federal employees.

Accordingly, I feel compelled to disapprove enactment of H.R. 5094.

THE WHITE HOUSE

August , 1974

RUSH

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 497

Date: August 8, 1974

Time: 9:30 a. m.

FOR ACTION: ~~Geoff Shepard~~  
✓ Fred Buzhardt  
Bill Timmons

cc (for information): Warren K. Hendriks  
Jerry Jones  
Dave Gergen

FROM THE STAFF SECRETARY

DUE: Date: Thursday, August 8, 1974 Time: 2:00 p. m.

SUBJECT: Enrolled Bill H. R. 5094 - Upgrading of Deputy United States Marshals

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

*No objection to memo.  
H.C.*

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

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

AUG 7 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 5094 - Upgrading of Deputy  
United States Marshals  
Sponsor - Rep. Udall (D) Arizona and 13 others

Last Day for Action

August 12, 1974 - Monday

Purpose

Upgrades nonsupervisory deputy United States marshal positions by one, two and three grades.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto message attached)
Department of Justice	Disapproval (Veto message attached)
Civil Service Commission	Disapproval (Veto message attached)

Discussion

H.R. 5094 is substantially similar to the deputy marshal upgrading bill passed in the 92nd Congress, H.R. 13895, which you pocket vetoed October 27, 1972. It has the effect of exempting deputy U.S. marshals from the job evaluation standards and controls of the General Schedule pay system, although--unlike the vetoed bill--nominal coverage under that system would be retained. In another respect, however, the bill is even more objectionable than the vetoed bill because of its discriminatory "grade conversion" provisions described below.

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On June 15, 1973, the Civil Service Commission issued new standards for the deputy marshal occupation as a result of a full-scale study. The new standards recognize the expanded duties and responsibilities imposed on the Marshal Service and accord deputy marshals classification and pay treatment which is consistent with that of other Federal employees. Under this system, the deputy marshal occupation is classified at grade levels GS-5 through GS-9 and structured to provide a two-grade interval progression for promotion, i.e., GS-5, GS-7, and GS-9, with GS-9 as the full journeyman level. GS-4 was retained as the special rate for trainees and veterans, and GS-5 as the entry level for more qualified candidates.

As a result of the new standards, large scale upgradings have occurred. For example, Justice states that prior to the application of the June 15, 1973 standard, 429 deputy marshals were in grade GS-9 whereas now 949 are in that grade. Positions not upgraded were carefully evaluated and found to be properly classified at existing levels.

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-- Deputies in GS-4, GS-5, GS-7, and GS-9 would be advanced to GS-5, GS-7, GS-9 and GS-11, respectively. These persons would be converted to the same step rates of the higher grades as those they now have in their present grades.

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#### Arguments for Approval

1. It is argued that CSC's 1973 action in reclassifying deputy marshal positions is insufficient in view of the expanded duties and responsibilities imposed in recent years on marshals, as a result of their increasing role in crime control, urban strife, air piracy and other law enforcement activities. The House Committee states that the revision failed to upgrade deputy marshals to the pay status they deserve.
2. In the House debate, a comparison was drawn between the starting salary of \$10,000 for D.C. Police privates, and \$6,882, then the sub-entry GS-4 rate for deputy marshal trainees. The GS-5 trainee rate which would be provided in the enrolled bill is currently \$8,055 and the GS-7 rate is \$9,969.
3. Despite veto of the predecessor bill, and the strong opposition of the executive branch, there is strong congressional support for H.R. 5094, as evidenced by the House vote of 319-84 and passage in the Senate by voice vote.
4. The upgrading of deputy marshals which has already occurred as a result of CSC's new classification standards reduces the number of upgradings under the enrolled bill, so that its budget impact would be minimal.

Arguments for Disapproval.

1. H.R. 5094 is contrary to the most fundamental principles of position classification and pay administration. Preferential upgrading for deputy marshals, regardless of duties or of the relationship of such work to other Federal occupations, subverts the principle of equal pay for equal work which is the basis for the Federal pay system.
2. The proposed pay increases for marshals would blatantly discriminate against the other 1.2 million Federal employees under the General Schedule system, and most particularly against those other law enforcement employees, such as border patrol and correctional officers, whose pay grades have been carefully aligned with those of deputy marshals.
3. Legislative job classification for deputy marshals will become a direct precedent for other occupational groups--firefighters, building guards, special police groups, et al--to demand equal special pay treatment in Congress. While the immediate impact of this legislation will be on law enforcement groups within the Department of Justice, pressure for statutory upgrading can be expected from all professional and occupational categories, with substantial potential budgetary cost if successful.
- 4: CSC states that continued congressional upgrading will eventually dismantle the whole position classification system, and the result will be "a hodgepodge of irrational misalignments," based entirely on the amount of pressure each group can bring to bear.
5. The special employment program for Vietnam veterans in the Marshal Service would have to be reduced, because the bill eliminates the existing sub-entry level GS-4 position used to employ veterans who lack sufficient education and experience to qualify for GS-5.
6. The grade conversion features of the bill would create irrational pay disparities within the Marshal Service itself. The bill mandates highly irregular rules for the initial promotion to grade and to step within grade, with the result that persons now performing identical work will be placed in different grades, and those within the same grade will receive unjustified differentials in pay. Additional upgradings may well be required to remedy the pay distortions the bill legislates.

7. Deputy marshals cannot fairly be compared with city policemen, however important, valuable or dangerous their work may be. The fact that D.C. Metropolitan Police receive higher pay than marshals, cited as justification for H.R. 5094, is not valid grounds for the upgrading this bill provides. CSC emphasizes the fact that GS-11 is simply not warranted as the journeyman level for deputy marshal work, especially when compared with the demands of investigative positions classified at the same grade.

#### Recommendations

Justice recommends against approval of H.R. 5094, and expresses particular concern for "...the chain reaction effect that undoubtedly will follow if H.R. 5094 becomes law." The Department also states:

"...we believe that legislation of this type is totally unwarranted and unnecessary and that enactment of H.R. 5094 would irreparably harm the Federal compensation system."

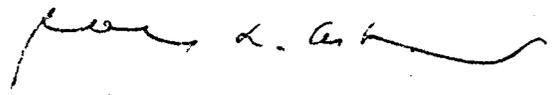
CSC strongly opposes the bill and urges disapproval, citing "the very serious potential dangers of this sort of legislation". The Commission also states:

"We are convinced that a large number of occupational pressure groups are watching the progress of H.R. 5094 with great interest. If it is approved we expect them to move immediately in the same direction. The eventual result could be the scrapping of the classification system, and the piecemeal establishment by Congress of every grade and every step for every separate occupation in the Federal service."

OMB concurs with Justice and CSC and strongly recommends disapproval. Both agencies have prepared draft veto messages and we have also prepared a draft for your consideration, drawing on the CSC draft.

We are giving consideration as to whether or not it would be desirable to include in the veto message reference to certain other objectionable personnel bills which are pending in the

Congress, and will be in touch with your staff on this matter.



Director

Enclosures

Department of Justice  
Washington, D.C. 20530

AUG 2 1974

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

Dear Mr. Ash:

In compliance with your request, I have examined a facsimile of the enrolled bill, H.R. 5094, a bill "To amend title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes."

Positions of deputy United States marshal now are graded under the general position classification and pay plan established by the Congress in chapter 51 of title 5, United States Code, to provide sound and equitable grade and pay relationships among white collar positions throughout the Government. Under this plan, the Civil Service Commission prepares Government-wide standards which define the different grades in terms of the duties, responsibilities and qualification requirements of the positions, and the Department of Justice fixes the grades and pay of its positions in accordance with these standards. Significantly, this plan permits the Department of Justice to base decisions to promote employees on two fundamental considerations: (1) is there work of the higher grade to be performed?, and (2) are the employees qualified to perform the higher level of work? These are management prerogatives essential to the effective and economical administration of a large and diversified work force.

H.R. 5094 would, on the other hand, fix the grades and pay of deputy marshal positions arbitrarily by statute rather than permit their evaluation under the carefully structured position classification system applicable to the positions of most other white collar Federal employees. Moreover, it would legislate a promotion system based on seniority which would require the Attorney General to promote each deputy marshal year after year until he reached the top non-supervisory grade of GS-11 whether or not there was GS-11 level work to be done by that employee.

Not to be overlooked, of course, is the chain reaction effect that undoubtedly will follow if H. R. 5094 becomes law. How long will the same union which represents many deputy marshals wait to seek similar legislation for border patrol agents and correctional officers, whose grades traditionally have been carefully aligned with those of deputy marshals? Already the Immigration and Naturalization Service has asked the Acting Assistant Attorney General for Administration to seek Civil Service Commission revision of the position classification standard for border patrol agent positions giving as one basis for this the recent upgrading of deputy marshal positions under the June 15, 1973 standard cited in H. R. 5094.

Another objectionable feature of H. R. 5094 is the cost which would be both exorbitant and inflationary. First year costs are estimated to be \$2 million; costs in succeeding years would have to be determined on an individual basis, but obviously would be substantial.

In summary, we consider that deputy marshals have been treated fairly under the existing system. For example, it should be noted that prior to application of the June 15, 1973 standard, 429 deputy marshals were in grade GS-9, whereas now 949 are in that grade. For the reasons stated above, we believe that legislation of this type is totally unwarranted and unnecessary and that enactment of H. R. 5094 would irreparably harm the Federal compensation system. Similar legislation, H. R. 13895 of the 92nd Congress, was disapproved by President Nixon last year because of the highly preferential treatment it would have accorded deputy marshals.

The Department of Justice recommends against Executive approval of this bill.

A proposed veto message is enclosed.

Sincerely,



W. Vincent Rakestraw  
Assistant Attorney General

2.

all positions are now classified in accordance with the new Civil Service Commission standards, and a substantial number of deputy marshals have been appropriately upgraded.

This Administration is vitally concerned that we do everything we can to win the battle against inflation by holding the line on wage increases that are excessive. The increases afforded deputy United States marshals as a result of the revised Civil Service Commission standard provided an equitable level of pay for these vital employees in relation to other Federal employees.

## MEMORANDUM OF DISAPPROVAL

I have before me H.R. 5094, a bill "To amend Title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes." This bill would remove deputy marshals from the General Schedule system and raise their pay by as much as 24 percent. While I fully recognize the complexity and importance of the work that is performed by our deputy United States marshals, I have had to decide not to approve this bill.

The General Schedule classification and pay system provides for the equitable compensation of more than 1.2 million Federal employees, including deputy United States marshals and employees in other law enforcement occupations with responsibilities similar to those of deputy United States marshals. A bill such as H.R. 5094, which would classify positions by statute rather than by an evaluation of the work performed, defeats the basic principle of equal pay for equal work, and is unfair to all the other General Schedule employees whose positions would continue to be classified in accordance with accepted classification principles.

The Civil Service Commission, working with the Department of Justice, recently revised the classification standard for the deputy marshal occupation in recognition of the increasing responsibilities of the work they perform. I understand that, as a result of this,



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

August 2, 1974

Honorable Roy L. Ash  
Director  
Office of Management and Budget

Attention: Assistant Director for Legislative  
Reference

Dear Mr. Ash:

This is in response to your request for the Commission's views and recommendation on enrolled bill H.R. 5094, an enrolled bill "To amend title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes."

This measure legislates grades for deputy U.S. marshals, placing them in grades on the basis of the grade and step they were in prior to June 1973, regardless of their duties or the relationship of deputy marshal work to the work of other Federal occupations. The bill effectively establishes GS-11 as the full performance grade for deputy marshal work, and eliminates the possibility of a GS-4 entry level. The Civil Service Commission strongly opposes this highly preferential measure and urges that it be disapproved. The bill:

- is contrary to the most fundamental principles of position classification and pay administration;
- would subvert the statutory principle of equal pay for equal work, creating inequities between deputy U.S. marshals and the other 1.2 million Federal employees under the General Schedule (especially those in other law enforcement occupations);
- would place deputy marshals performing identical work in different grades;
- would establish completely irrational pay differentials between deputy marshals in the same grade; and
- would stop the present practice of employing veterans under special programs starting at the GS-4 level when those veterans do not meet the qualification requirements for the GS-5 level.

This enrolled bill is very similar to a previous bill, H.R. 13895, which was passed by the 92nd Congress but disapproved by the President. Among the arguments for H.R. 13895 was the contention that the Civil Service Commission standards for this occupation were not up to date, and did not provide appropriate grades for deputy marshal work. Since that time, the Civil Service Commission has completed an occupational study of the deputy marshal occupation. The study found that the occupation needed substantial restructuring, including a change from a one to a two-grade interval progression for promotions, and an increase in the typical journeyman level from the GS-8 to the GS-9 level. Those changes in the occupation were carried out through the approval, in June 1973, of new qualification and classification standards for the occupation.

One of the specific findings of the occupational study was that the GS-11 level is simply not warranted for the typical journeyman position in the Marshals Service. The study included, for example, a comparison of deputy marshal and investigative positions. The Commission's standard for investigative positions shows that GS-11 investigators are responsible for the independent handling of an entire case. The characteristics and specific examples given in the standards for investigative positions indicate that the full performance level of deputy marshals does not match the GS-11 level. Deputy marshals are almost exclusively limited to one aspect of the cases described at this level, i.e. location and apprehension of the subject. Seizure of property is also limited in scope. There is no need to establish any case concerning the property. The deputy identifies, seizes, and protects the property. The rest of the case relating to the property is the concern of others. To place these positions at the GS-11 level would therefore be in conflict with the principle of equal pay for equal work.

That principle would be even more blatantly violated by the grade conversion provisions of H.R. 5094. Those provisions would place deputies performing identical work in different grades by assigning grades based on the previous within-grade (pay) step held by each deputy. Since large scale upgradings have occurred by application of the new standard since June, the bill has now been amended to prevent a "double-jump." If a marshal has been upgraded under the new standard, the bill requires the Department of Justice to determine where he was prior to this upgrading, and move him from that point to the grade and step specified by the peculiar advancement formula provided by the bill.

The formula ignores the fact that grade level alone reflects the level of work, while the pay step reflects longevity. The bill would in some instances force the Department of Justice to upgrade deputy marshals to a particular grade based on their previous step. As an example, two marshals doing identical work have been advanced to GS-9

under the new standard. The bill passes. The Department of Justice determines that last June one was in step 7 of GS-8 while the other (because of longer service) was in step 8 of the same grade. The bill advances the more senior to GS-11 (for which he is clearly not qualified) with an increase of \$68 a year. The more junior remains in GS-9 but with an increase of \$1624 a year. One gets an unwarranted two-grade promotion; the other gets an unwarranted four-step salary increase; the more junior now earns \$1150 a year more than his co-worker with longer service; and they are still doing identical jobs.

Under the new standard, we now have about 800 marshals in GS-9, all working at the same level--doing essentially the same job. H.R. 5094 would leave half of them in GS-9 but move the other half to GS-11. The 400 left in the correct grade will surely file appeals. The bill makes no pretense at equity; it openly establishes inequity.

Clearly, the establishment of the principle that a whole occupation can be inequitably upgraded by preferential legislation--if its lobby is vocal enough--is simply the thin edge of the wedge leading to the dismantling of our whole position classification system. Obviously, all employees would like to be in higher grades. If the deputy marshals succeed in getting preferential treatment, we would expect the policeman to try the same tactic; if they are successful, then the firefighters, then the correctional officers, then the translators, then the IRS officers, and so forth, until eventually the whole classification structure is a hodgepodge of irrational misalignments. Then the marshals, having seen their preferential position eroded by the success of other groups, would be ready to start the process over again with a special bill to raise them to GS-12.

We are convinced that a large number of occupational pressure groups are watching the progress of H.R. 5094 with great interest. If it is approved, we expect them to move immediately in the same direction. The eventual result could be the scrapping of the classification system, and the piecemeal establishment by Congress of every grade and every step for every separate occupation in the Federal Service.

The bill would also reduce the hiring of veterans by the U.S. Marshal Service. The Service has encouraged the hiring of veterans through the Veterans Readjustment Act by filling positions below the normal trainee level. This practice has permitted the hiring and training of veterans who could not meet all of the normal entry requirements. H.R. 5094 would stop this and similar programs by failing to provide for the possible filling of positions below the GS-5 level.

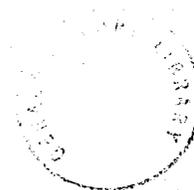
In view of these problems, and the very serious potential dangers of this sort of legislation, the Civil Service Commission urges that the President disapprove H.R. 5094. A proposed veto message is enclosed.

By direction of the Commission:

Sincerely yours,

Jayne B Spain  
Acting  
Chairman

Enclosure



TO THE HOUSE OF REPRESENTATIVES

I am returning to Congress without my approval H. R. 5094, an enactment "To amend title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes".

This enactment would violate fundamental principles of fairness, creating serious pay inequities between deputy United States marshals and other Federal law enforcement personnel. Even more illogically, it would create severe disruption of existing grade and pay relationships among the deputy marshals themselves - extending so far in some cases as to place more junior marshals in pay rates as much as \$1,150 above more senior coworkers who now, properly, are at a relatively higher rate. Some deputies doing identical work would be placed in different pay grades, and deputies doing different work would be placed in the same pay grade.

The enactment would run directly counter to the principle of equal pay for equal work. I find no basis for granting this small group such highly preferential treatment. Our policy must be, and is, to provide equitable salaries for all Federal employees. The proposed legislation violates that policy.

The action I am taking today in no way reflects on my appreciation of these employees. Their work is obviously important, but approval of this legislation would give this one small group an unwarranted advantage over other groups of equally dedicated employees.

Accordingly, I am constrained to disapprove enactment of H.R. 5094.

THE WHITE HOUSE

TO THE HOUSE OF REPRESENTATIVES

I am returning without my approval, H.R. 5094, a bill which would raise the pay of deputy United States marshals by as much as 24 percent through comprehensive, across-the-board upgrading.

This bill is similar to H.R. 13895 which I disapproved on October 27, 1972.

I am disapproving H.R. 5094 because it violates fundamental principles of fairness. It would place deputy marshal positions in salary ranges that would value such work at higher levels than the General Schedule provides for other work of comparable difficulty, despite the fact that the Civil Service Commission has already taken action to remedy any inequities which may have existed.

Even worse, it would create severe disruption of existing grade and pay relationships among the deputy marshals themselves--extending so far in some cases as to call for paying junior marshals as much as \$1,150 above more senior coworkers. Some deputies doing identical work would be placed in different pay grades, and deputies doing different work would be placed in the same pay grade. The bill could also markedly reduce the present special hiring program for veterans who wish to become deputy marshals and thus run counter to our efforts to enhance employment for Vietnam veterans.

H.R. 5094 runs directly counter to the principle of equal pay for equal work. Our policy must be, and is, to provide equitable salaries for all Federal employees. I find no basis for granting one small group highly preferential treatment.

Approval of the proposed statutory pay plan, in addition to being inherently unfair, would also serve as a precedent for other occupational groups to seek favored treatment in the Congress. The result could be a welter of costly, irrational pay systems, which would undermine the classification principles which are at the heart of the Government's merit system.

My action in disapproving this bill in no way reflects on the very high regard I have for the outstanding men and women who carry out the important work of deputy marshals. Approval of this bill, however, would give these employees a wholly unwarranted advantage over many other groups of equally devoted Federal employees who also perform valuable service.

I am also disturbed with this bill in that it represents another in a series of congressional actions to pass a myriad of unwarranted legislation often requiring unbudgeted increases in Federal expenditures. The result invariably is that cumulative and subsequently uncontrollable increases occur in many areas including unwarranted liberalizations in Federal personnel benefits.

Over the past two years, legislation passed by the Congress has increased the unfunded liability costs of the Federal employees retirement system by \$2 billion. These actions will increase outlays in the next fiscal year by \$300 million. Other benefit bills still pending before Congress would create an additional unfunded liability of about \$20 billion and would further increase 1976 budget outlays by \$850 million. These bills would be directly counter to our present efforts

to reduce the level of Federal spending and to submit a balanced budget for fiscal year 1976. They would fuel inflation precisely when all sectors of the economy must exercise strict restraint.

It is most important to our Nation to have adequately paid and motivated Federal employees. Nevertheless, Congress cannot justifiably continue to pass legislation which is not fiscally responsible. If we are to deal successfully with inflation, the Federal Government as the Nation's largest single employer must take the lead. If we expect restraint in the private sector on wage and price demands we must exercise even greater restraint in the Government.

I urge the Congress to join me in the fight against inflation which is our Nation's number one domestic problem. I would hope that Congress will exercise responsibility in considering further legislation benefiting Federal employees.

Accordingly, I feel compelled to disapprove enactment of H.R. 5094.

THE WHITE HOUSE

August , 1974

(Gergen)

August 12, 1974

TO THE HOUSE OF REPRESENTATIVES

I am today returning to the Congress without my approval H. R. 5094, a measure that would require the reclassification and upgrading of deputy United States marshals.

A bill substantially similar to this legislation was passed by the Congress and then pocket vetoed by President Nixon in October, 1972. Since that time various departments of the executive branch have consistently argued that such legislation would be unwise and discriminatory.

That opposition has been based upon the view that by singling out deputy United States marshals for significant salary increases, the Government would be creating serious pay inequities with other Federal law enforcement personnel, thus violating fundamental principles of fairness. In addition, H. R. 5094 would severely disrupt existing grade and pay relationships among the deputy marshals themselves. In some cases, under this legislation, junior marshals would be paid \$1,150 a year more than their senior colleagues. Some deputies doing identical work would be placed in different pay grades, while deputies performing different jobs would be placed in the same pay grade.



I fully appreciate the fine service performed by our deputy U.S. marshals, and I am aware that the Congress was prompted by a desire to ensure that their pay matched the increasing responsibilities they have assumed in recent years. But I also believe that this legislation would run directly counter to the principle of equal pay for equal work that underlies our civil service system. Our policy has been and must continue to be one of fundamental fairness to all Federal employees. For that reason, I am returning this legislation without my approval.

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/s/ GERALD R. FORD

THE WHITE HOUSE,

August 12, 1974.

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That opposition has been based upon the view that by singling out deputy United States marshals for significant salary increases, the Government would be creating serious pay inequities with other Federal law enforcement personnel, thus violating fundamental principles of fairness. In addition, H.R. 5094 would severely disrupt existing grade and pay relationships among the deputy marshals themselves. In some cases, under this legislation, junior marshals would be paid \$1,150 a year more than their senior colleagues. Some deputies doing identical work would be placed in different pay grades, while deputies performing different jobs would be placed in the same pay grade.

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/s/ GERALD R. FORD

THE WHITE HOUSE,

August 12, 1974.



August 12, 1974

Received from the White House a sealed envelope said to contain H. R. 5094, An Act to amend title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes, and a veto message thereon.



*W. P. Jennings*  
Clerk of the House of Representatives

*By Benjamin L. ...*  
*10:00 PM*

Time Received

TO THE HOUSE OF REPRESENTATIVES:

I am today returning to the Congress without my approval H.R. 5094, a measure that would require the reclassification and upgrading of deputy United States marshals.

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That opposition has been based upon the view that by singling out deputy United States marshals for significant salary increases, the Government would be creating serious pay inequities with other Federal law enforcement personnel, thus violating fundamental principles of fairness. In addition, H.R. 5094 would severely disrupt existing grade and pay relationships among the deputy marshals themselves. In some cases, under this legislation, junior marshals would be paid \$1,150 a year more than their senior colleagues. Some deputies doing identical work would be placed in different pay grades, while deputies performing different jobs would be placed in the same pay grade.

I fully appreciate the fine service performed by our deputy U.S. marshals, and I am aware that the Congress was prompted by a desire to ensure that their pay matched the increasing responsibilities they have assumed in recent years. But I also believe that this legislation would run



directly counter to the principle of equal pay for equal work that underlies our civil service system. Our policy has been and must continue to be one of fundamental fairness to all Federal employees. For that reason, I am returning this legislation without my approval.

*Gerald R. Ford*

THE WHITE HOUSE,

August 12, 1974.



AUGUST 13, 1974

Office of the White House Press Secretary

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THE WHITE HOUSE

TO THE HOUSE OF REPRESENTATIVES:

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That opposition has been based upon the view that by singling out deputy United States marshals for significant salary increases, the Government would be creating serious pay inequities with other Federal law enforcement personnel, thus violating fundamental principles of fairness. In addition, H.R. 5094 would severely disrupt existing grade and pay relationships among the deputy marshals themselves. In some cases, under this legislation, junior marshals would be paid \$1,150 a year more than their senior colleagues. Some deputies doing identical work would be placed in different pay grades, while deputies performing different jobs would be placed in the same pay grade.

I fully appreciate the fine service performed by our deputy U.S. marshals, and I am aware that the Congress was prompted by a desire to ensure that their pay matched the increasing responsibilities they have assumed in recent years. But I also believe that this legislation would run directly counter to the principle of equal pay for equal work that underlies our civil service system. Our policy has been and must continue to be one of fundamental fairness to all Federal employees. For that reason, I am returning this legislation without my approval.

GERALD R. FORD

THE WHITE HOUSE,  
August 12, 1974.

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RECLASSIFICATION OF DEPUTY UNITED STATES  
MARSHALS

MAY 30, 1973.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 5094]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 5094) to amend title 5, United States Code, to provide for the reclassification of positions of deputy U.S. marshal, 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 strikes out all after the enacting clause and inserts a substitute text which appears in italic type in the reported bill.

The amendment is explained in the text of the report.

PURPOSE

The purpose of H.R. 5094 is to reclassify the positions of deputy U.S. marshal (other than supervisory or managerial positions) at grades GS-5, GS-7, GS-9, or GS-11 of the General Schedule.

COMMITTEE ACTION

No hearings were held on this legislation during this session of the Congress. However, a hearing on similar legislation (H.R. 13895), which eventually was vetoed by the President, was held during the 92d Congress (committee hearing No. 92-45).

H.R. 5094, as amended, was approved by the Subcommittee on Manpower and Civil Service by a voice vote on May 10, 1973.



On May 17, 1973, the full committee ordered the bill reported by a record vote of 18 to 1.

#### STATEMENT

H.R. 5094 would raise the grade levels of all deputy U.S. marshal positions, other than supervisory and management positions, in order to bring a measure of justice and equality to present incumbents and future recruits of this critically important occupational group. These positions are presently classified at the General Schedule grade levels of GS-4, GS-5, GS-6, GS-7, GS-8 and GS-9. The GS-4 and GS-5 levels are being utilized for entrance level trainees under the Vietnam veterans' readjustment program. H.R. 5094, as amended, would require these positions to be classified at GS-5 (trainee), GS-7, GS-9, and GS-11 of the General Schedule.

The approximate number of deputy marshals and grade level assignments as of April 13, 1973, was:

Nonsupervisory:	Number
GS-4	65
GS-5	85
GS-6	256
GS-7	300
GS-8	265
GS-9	349
Total	1,320

Since the last Civil Service Commission job classification standards were issued for these positions in October of 1967, the duties and responsibilities of deputy marshals have significantly increased in scope and degree of exposure to hazardous situations. Beginning in 1970, the deputy U.S. marshals became involved in airline antipiracy programs and were the first Federal law enforcement body to provide protection for persons and property against hijacking. They have executed their duties in this particular field in a highly creditable and professional manner. Their efforts have resulted in the prevention of at least 29 hijacking attempts; the effecting of a total of approximately 3,900 arrests (approximately 550 for possession of concealed weapons and over 1,000 for violation of Federal and State narcotic laws); and the seizure of approximately \$18 million worth of narcotics.

In early 1971, deputy U.S. marshals were assigned the responsibility of protecting witnesses who are required to testify in Federal proceedings. In addition to witnesses, the marshals are responsible for protecting prosecutors, judges, and Deputy Attorneys General. Another example of hazardous duties required of deputy U.S. marshals is their duties in connection with illegal occupancy of public buildings and similar offenses, such as recently occurred at Wounded Knee, S. Dak.

The duties of a deputy U.S. marshal frequently involve personal risk, exposure to severe working conditions, physical exertion, irregular and long work hours, and extended periods of time away from home. In addition to the adverse physical aspects of their day to day assignments, deputy marshals must utilize mature judgment and insight to deal with potentially explosive situations, and must be capable of taking necessary measures to deter the development of such situations.

Unfortunately, these nonsupervisory deputy marshals are not receiving an equitable rate of pay in return for the work they are now performing.

During the second session of the 92d Congress a similar, but not identical, bill (H.R. 13895) was approved by the Congress but was vetoed by the President on October 27, 1972. In disapproving H.R. 13895 the President stated:

There is no justification for this highly preferential treatment, which discriminates against all other Government employees who perform work of comparable difficulty and responsibility and whose pay is now the same as that of deputy marshals.

The committee has not conducted a study to determine the extent to which the duties of other Federal employees are comparable in degree of difficulty and responsibility to those of deputy U.S. marshals. The committee has determined, however, that the pay of deputy marshals clearly is not commensurate with the difficulty of their duties and responsibilities and the personal risks to which they constantly are exposed. This fact, to a lesser degree, is recognized by the Civil Service Commission.

In its report of April 18, 1973, on H.R. 5094, the Civil Service Commission advised the committee that it has been conducting a full-scale study of the deputy U.S. marshal occupation. No doubt, the Commission's decision to initiate a full-scale study of this matter was the result of congressional action on H.R. 13895. The Commission's report contains the following statement:

The results of our comprehensive study will accord the deputy U.S. marshals classification and pay treatment which is consistent with other Federal employees, and which accurately reflects the range of duties and responsibilities that exist in the Marshal Service at the present time.

It is apparent, therefore, that even the Civil Service Commission recognizes that the classification and pay treatment of deputy U.S. marshals does not now accurately reflect the range of duties and responsibilities of such employees.

While the Commission's study could result in some improvement in the compensation of deputy U.S. marshals, the committee is not convinced that the Commission is prepared to elevate deputy marshals to the pay status they fully deserve. Furthermore, it has become obvious that the Congress can no longer wait for the Civil Service Commission to take the necessary action to improve the pay of deputy U.S. marshals.

#### SECTIONAL ANALYSIS

##### FIRST SECTION

Subsection (a) of the first section of the bill sets forth the policy of the Congress that all Federal personnel who have law enforcement responsibilities, such as deputy U.S. marshals, shall be adequately paid in amounts commensurate with the degree of danger and stress incident to such responsibilities.

Subsection (b) amends section 5109 of title 5, United States Code, relating to positions classified by statute, by adding a new subsection (c) at the end thereof. The new subsection (c) provides that each position of deputy U.S. marshal, other than a supervisory or managerial position, shall be classified, in accordance with regulation issued by the Civil Service Commission, at grades GS-5, GS-7, GS-9, or GS-11 of the General Schedule (5 U.S.C. 5332), except that GS-5 shall be used only for a trainee.

Under this amendment the positions of deputy U.S. marshal will continue to be subject to the classification provisions of chapter 51 and the General Schedule pay provisions of subchapter III of chapter 53 of title 5, United States Code, but the specific grades at which such positions may be classified will be governed by the provisions of the new section 5109(c).

## SECTION 2

Section 2 of the bill provides for the initial conversion of all deputy U.S. marshals who are covered by the new subsection (c) of section 5109 of title 5, as added by the first section of the bill, and who are on the rolls on the effective date of this section.

Under the conversion provisions of section 2, a deputy U.S. marshal who is in grade GS-4, GS-5, GS-6, GS-7, GS-8, or GS-9 of the General Schedule immediately before the effective date of section 2 will be elevated to a higher grade of the General Schedule in accordance with the provisions of paragraphs (1) through (8) of subsection (a) of section 2. Paragraphs (1) through (8) prescribe the specific grade and step of the grade to which each deputy marshal shall be advanced.

Subsection (b) of section 2 provides that an increase in pay that results from an initial adjustment of pay under the conversion provisions of subsection (a) of section 2 shall not be deemed to be an equivalent increase in pay within the meaning of section 5335 of title 5 for purposes of step increases. This means that the employee will not be required to commence a new waiting period for his next step increase as a result of his advancement to a higher grade and rate of pay under the conversion provisions of subsection (a).

Subsection (b) further provides that the service performed by an employee immediately before the effective date of the conversion of the employee under subsection (a) of section 2 shall be counted toward only one step-increase under the time-in-step provisions of 5 U.S.C. 5335. For example, a deputy U.S. marshal who has served 2 years and 11 months in step 8 of GS-6 will be further advanced only to step 2 of GS-9 on the basis of such prior service after his initial conversion to step 1 of GS-9, and a new waiting period will start at the time of such advancement to step 2.

Subsection (c) of section 2 provides that no rate of basic pay which is in effect immediately before the effective date of section 2 shall be reduced by reason of the enactment of this bill.

## SECTION 3

Section 3 of the bill provides that the provisions of the bill shall become effective at the beginning of the first applicable pay period which commences on or after the date of enactment.

## Costs

The first year cost of implementing the proposed grade structure and adjustment of step rates as provided for in this bill is estimated by the committee to be approximately \$2,069,818, based on 1,320 employees in the following categories:

GS-4 to 5	998,864
GS-5 to 7	251,487
GS-6 to 7 or GS-9	362,708
GS-7 to 9	784,221
GS-8 to 9 or GS-11	284,890
GS-9 to 11	287,698

Total 2,069,818

The estimate by the Department of Justice as shown in the report of April 18, 1973, is \$2.6 million for nonsupervisory deputy marshals.

The estimated 5-year cost (based on an estimated 5.5 percent annual increase in Federal salaries) is as follows:

1st year	\$2,069,818
2d year	2,188,658
3d year	2,303,759
4th year	2,430,466
5th year	2,564,142

Total 11,551,843

## AGENCY REPORTS

Following are agency reports on H.R. 5094 and a similar bill, H.R. 344:

DEPARTMENT OF JUSTICE,  
Washington, D.C., April 18, 1973.

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

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 5094, a bill to amend title 5, United States Code, to provide for the reclassification of positions of deputy U.S. marshal, and for other purposes.

Positions of deputy U.S. marshal are now subject to the General Schedule position classification and pay plan established by the Congress in chapter 51 of title 5, United States Code, for the majority of Government positions. The plan is designed to provide sound and equitable grade and pay relationships among General Schedule positions throughout the Federal service. Under this plan, the Department of Justice grades and fixes the pay of the preponderance of its positions—including those of deputy marshals—in accordance with Governmentwide standards issued by the Civil Service Commission which define the different grades in terms of the duties, responsibilities, and qualification requirements of the positions. At present, most deputy marshals enter the U.S. Marshals Service at grade GS-6, although some enter at GS-4 or GS-5 under the Veterans readjustment program. While the full working level is GS-8, a limited number of nonsupervisory deputy marshals may advance to the senior work-

ing level of GS-9. The number of nonsupervisory deputies in each of these grades as of April 14, 1973, was: GS-4: 65; GS-5: 85; GS-6: 256; GS-7: 300; GS-8: 265; and GS-9: 349. In addition, there were 80 nonsupervisory deputies in GS-10, 15 in GS-11, and 4 in GS-12.

Under H.R. 5094, all positions of deputy U.S. marshal would be classified at not less than GS-5, or at GS-7, GS-9, or GS-11, and within those grades, at varying step rates depending upon the deputy marshal's performance of duties, his length of service and his ability to accept the responsibilities of a deputy U.S. marshal. Under section 2 of the bill, deputy U.S. marshals and their positions would be reclassified one or two grades higher than the grade applicable before the effective date so that the lowest grade for a deputy U.S. marshal would be a GS-5 and the highest grade would be a GS-11.

While H.R. 5094 provides that the positions be classified in accordance with regulations issued by the Civil Service Commission, the fact that it requires positions to be classified to four specific grades denies the Commission the authority to determine through job evaluation processes the worth of deputy marshal positions relative to other positions subject to the Government-wide General Schedule system.

There are more than 170 white-collar occupations represented in the Department of Justice workforce, and sound and equitable relationships among them are a prerequisite to an effective personnel management program. H.R. 5094, by requiring the raising of grades applicable to all deputy U.S. marshals without regard to the difficulty of the work and the effect such a grade raise would have on similar positions, would result, in my opinion, in malalignment of deputy marshal positions with other positions, including other law enforcement positions, in this and other departments. Not only would this have a deleterious effect on the morale of other employees, but it would set a precedent for other similar inroads on the Government-wide position classification system.

The provisions of section 2 of the bill, providing automatic grade raises for all deputy marshals and deputy marshal positions, would provide preferential treatment to deputy marshals over the treatment accorded other civil servants whose jobs are reclassified under ordinary civil service procedures. The deputy marshals would receive these grade raises under the bill without regard to the difficulty, responsibility and qualification requirements of the work performed, thus directly contrary to the policy of the civil service laws (5 U.S.C. 5101).

In addition, in providing grade raises, section 2 provides larger salaries in some instances than would be provided under a normal promotion under existing civil service law, 5 U.S.C. 5334. For example, an employee promoted under title 5, United States Code, from the 7th rate of GS-6 (\$10,288) to a GS-7 would have his pay fixed at the 6th rate of GS-7 (\$11,105). However, under section 2 of H.R. 5094, the employee's pay would be fixed at the 10th rate of GS-7 (\$12,373). There is no apparent reason for this discrepancy between the bill and existing civil service law. Further, all increases in pay greater than those provided by existing law appear to be gratuities since they would not be based upon increases in value of services received, as is the case with promotions under the General Schedule.

Of greater concern, section 2(2) would fix the rates of basic pay of some deputy marshals at rates in GS-9 and GS-11, despite the fact that section 2(1) required their positions to be classified to GS-7 and GS-9, respectively. While employees in rates 1 through 7 of GS-6 would be advanced to GS-7, rates 4 through 10, respectively, employees in rates 8 through 10 of GS-6 would be advanced to GS-9, rates 1 through 3. Similarly, employees in rates 1 through 7 of GS-8 would be advanced to GS-9, rates 4 through 10, respectively, and employees in rates 8 through 10 of GS-8 would be advanced to GS-11, rates 1 through 3, respectively. It is not clear how this requirement can be executed.

It is unclear whether H.R. 5094 is intended to apply only to non-supervisory positions, but we have assumed such a limitation in forming our comments. In addition, while the bill makes no provision for deputy marshals in grade GS-10, we assume that an employee in that grade would have to be reassigned to one of the four grades provided in the bill. Finally, the effect of the bill on supervisory positions is totally unclear since many of these positions are filled by persons in the grades provided in this bill, particularly grade GS-11.

The cost of carrying out the provisions of H.R. 5094 is estimated to be in excess of \$2.6 million for nonsupervisory deputy marshals alone. Although the impact of the bill on supervisory positions cannot be determined fully at this time, the cost of supervisory positions would probably increase approximately \$529,000. In the 92d Congress, President Nixon vetoed H.R. 13895, a similar bill, because of the costs and the preferential treatment which the bill would have given deputy U.S. marshals. Weekly Compilation of Presidential Documents, October 30, 1972, p. 1579.

In summary, while the Department is dedicated to bringing about improvements in all aspects of personnel management affecting deputy marshals, it believes firmly that they should be accomplished through the administrative authorities and procedures established by existing public policy, rather than by legislation such as H.R. 5094.

The Department of Justice recommends against enactment of this legislation.

The Office of Management and Budget has advised that there is no objection to submission of this report and that enactment of this legislation would not be in accord with the program of the President.

Sincerely,

MIKE McKEVITT,  
*Assistant Attorney General.*

U.S. CIVIL SERVICE COMMISSION,  
*Washington, D.C., April 18, 1973.*

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

DEAR MR. CHAIRMAN: This is in response to your separate requests for the views of the Civil Service Commission on H.R. 344 and H.R. 5094, both bills to amend title 5, United States Code, to provide for

the reclassification of positions of deputy U.S. marshal, and for other purposes.

Both bills would classify positions of fully qualified deputy U.S. marshals at GS-7, GS-9, or GS-11. Within these ranges, the step rate for each employee would be determined by the "appropriate authority" depending upon the employee's (1) general performance of his duties as a deputy U.S. marshal, (2) the number of years of his service as a deputy U.S. marshal, and (3) his ability to accept responsibilities as a deputy U.S. marshal. Both bills contain provisions to convert the present incumbents from the grades they have been assigned by the classification process to those which would be created by statutory enactment. In addition, H.R. 5094 provides that GS-5 shall be an entry level for trainees. H.R. 344 contains one most unusual feature: it provides that the GS grades for deputy U.S. marshals shall be truncated so as to extend only from the present third step to the present seventh step.

The Civil Service Commission is strongly opposed to enactment of either of these bills. It is our considered opinion that this or similar legislation is contrary to the most fundamental principles of position classification and pay administration, would subvert the statutory principle of equal pay for equal work, would create severe inequities between deputy U.S. marshals and the other 1.2 million General Schedule employees (most particularly others in the law enforcement occupations), could deny deputy U.S. marshals their entitlement to regular within-grade increases, and would entirely undo the Commission's current efforts to issue updated standards which reflect the actual job content of the present-day deputy marshal within the framework of the overall General Schedule structure.

The General Schedule classification and pay system now provides for the equitable compensation of more than 1.2 million Federal employees including deputy U.S. marshals and members of the many other occupations within the protective and law enforcement fields. This system provides for the assignment of employees to appropriate grades on the basis of the difficulty and responsibility of their work, and the qualifications which they need to perform this work. This assignment is based upon the position classification standards which are prepared and issued by the Civil Service Commission, after careful and continuous study of each Federal occupation.

As a result of concern about developments in the job content of deputy U.S. marshals, we have recently been conducting a full-scale study of this occupation. This study included factfinding at both headquarters and field locations, and has encompassed a review of all Marshal Service functions such as courtroom security, serving of process, making arrests, and witness security. The occupational study was conducted at offices ranging from very small (Providence) to moderately large (Miami), and included interviews with union representatives from the Washington, D.C. office (a very large office). This study will result in a new standard for deputy U.S. marshal, which we expect to publish by June 30, 1973.

The starting point of our study was a proposal by the Department of Justice which would provide a two-grade interval progression for the nonsupervisory positions from an entry level at GS-5 (with no special-

ized experience) through an intermediate level at GS-7, to the full journeyman at GS-9. Under the Justice Department's proposal, the two-grade interval pattern would equate the highest level deputy marshal duties with investigative duties (where the two-grade interval is typical) rather than with police or guard duties (where the one-grade progression is more typical). The GS-5 entry level would equate the Marshal Service with kindred Federal occupations, such as criminal investigator and immigration inspector, all of which have a GS-5 entry level with 8 years of general experience (or college) but no specialized experience required. It would also enable the Department of Justice to recruit more college graduates into the Marshal Service.

The results of our comprehensive study will accord the deputy U.S. marshals classification and pay treatment which is consistent with other Federal employees, and which accurately reflects the range of duties and responsibilities that exist in the Marshal Service at the present time. Passage of either H.R. 344 or H.R. 5094 would raise deputy marshal by statute to levels that have not been determined to be warranted by the duties and responsibilities in comparison with the grade levels in title 5, United States Code, with other occupations in the Federal service.

The statutory principle of "equal pay for substantially equal work" would be even more grossly subverted by the conversion rules which are provided by the two bills. H.R. 5094 would place many employees in different grades on the basis of their current step. For example, those now in step 7 of GS-6 would advance to GS-7, but those now in step 8 of GS-6 would advance to GS-9. Thus, two employees whose work is presently identical could find themselves two full grades apart if one happened to have a few weeks more service than the other. H.R. 344, on the other hand, provides that those now in GS-7 and GS-8 (and whose present duties have therefore been determined to be measurably different) would both be advanced to GS-9.

Both bills would also provide the unprecedented means of within-grade salary advancement cited above in the second paragraph. Under these provisions, a deputy U.S. marshal would no longer be able to depend upon regular periodic step raises based upon an acceptable level of competence, nor would he be able to appeal the withholding of such increase. His placement at, or advancement to, a particular step rate would be determined by an unspecified "appropriate authority," outside the provisions of the civil service regulations which currently safeguard within-grade salary increases. H.R. 344 would restrict the deputy marshal's salary growth even more, by truncating the range from 10 steps to only 5.

The severe inequities which either of these bills would create between the Marshal Service and other Federal employees would be very real ones, and would undoubtedly lead to demands from groups of other employees, particularly those in the law enforcement and protective occupations, for similarly preferential treatment. If successful, such efforts could lead to an increasing series of departures from proper classification principles, with resultant fragmenting of the very fabric of the Federal classification system.

In summary, we firmly believe that legislation of this type is totally unwarranted and unnecessary, and that passage of either H.R. 344 or

H.R. 5094 would have a most pernicious effect upon the integrity of the Federal compensation structure. Similar legislation, H.R. 13895 of the 92d Congress, was disapproved by President Nixon last year because of the highly preferential treatment it would have afforded deputy marshals.

The Office of Management and Budget advises that there is no objection to the submission of this report, and that enactment of H.R. 5094 would not be in accord with the program of the President.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT OF BUDGET,  
*Washington, D.C., April 18, 1973.*

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

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this office on H.R. 5094, to amend title 5, United States Code, to provide for the reclassification of positions of deputy U.S. marshal, and for other purposes.

The purpose of H.R. 5094 is to upgrade the position of deputy U.S. marshal by prescribing statutory grade levels which are one, two and even three grades above present classification levels for such work. This would be effected without regard to the difficulty of the work performed or to relationships with other similar positions.

In reports which the Civil Service Commission and the Department of Justice are submitting, they state their reasons for strongly opposing enactment of H.R. 5094. Both agencies state that the bill would destroy the essential relationship between pay and job classification, thereby discriminating against all other employees under the General Schedule system, and most particularly against other law enforcement personnel. The agencies also note that H.R. 13895, similar legislation of the 92d Congress, was disapproved by the President in October of 1972, and that enactment of special pay legislation for one group would lead ultimately to demands by others for equally preferential treatment.

We concur in the views expressed by the Civil Service Commission and the Department of Justice and, accordingly, strongly recommend against enactment of H.R. 5094. Enactment of H.R. 5094 would not be in accord with the program of the President.

Sincerely,

WILFRED H. ROMMEL,  
*Assistant Director for Legislative Reference.*

#### 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 re-

ported, are shown as follows (new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

#### SECTION 5109 OF TITLE 5 OF THE UNITED STATES CODE

##### § 5109. Positions classified by statute

(a) The position held by an employee of the Department of Agriculture while he, under section 450d of title 7, is designated and vested with a delegated regulatory function or part thereof shall be classified in accordance with this chapter, but not lower than GS-14.

(b) The position held by the employee appointed under section 1104(a)(2) of this title to have such functions and duties with respect to retirement, life insurance, and health benefits programs as the Civil Service Commission may prescribe is classified at GS-18, and is in addition to the number of positions authorized by section 5108(a) of this title.

(c) *Each position of deputy United States marshal (other than a supervisory or managerial position) shall be classified, in accordance with regulations by the Civil Service Commission, at GS-5, GS-7, GS-9, or GS-11, except that GS-5 shall be used only for a trainee.*

### MINORITY VIEWS ON H.R. 5094

It is our hope that Members will give more than perfunctory attention to these minority views. We sincerely believe this bill, H.R. 5094, should not be approved by the House. Respect for the basic legitimacy of the Federal merit system would, in itself, justify opposition to this measure.

The deficiencies of this type of legislation were accurately described by the President in his veto message of October 27, 1972, on a practically identical bill. In his veto message the President said,

This would raise the pay of some 1,500 deputy marshals by as much as 38 percent, through wholesale across-the-board upgrading. There is no justification for this highly preferential treatment, which discriminates against all other Government employees who perform work of comparable difficulty and responsibility and whose pay is now the same as that of deputy marshals.

Nothing has occurred since that veto to justify the enactment of H.R. 5094.

Probably the major flaw of this legislation is its contravention of the statutory principle of position classification. The authority, and responsibility, for the classification of position lies with the Federal agencies and the Civil Service Commission. The Congress has established guidelines for position classification, but it has wisely left to the agencies and the Civil Service Commission the duty of determining the proper classes and grades for placing positions. The classification of positions by specific statute is a dangerous precedent and should be avoided. Existing law on position classification can adequately deal with the problems which H.R. 5094 proposes to resolve.

The matter of reclassifying the position of deputy U.S. marshal has not gone unattended. The Civil Service Commission has just completed a comprehensive and exhaustive study of the deputy marshal profession, in which they have reviewed the changes which have occurred in the duties of deputy marshals over the past few years. A new standard has been tentatively proposed which is to be published by June 30, 1973, and which will significantly restructure the profession in the Federal service.

H.R. 5094 is simply not consistent with the Commission's findings and would wreck the grade alinement of this occupation in relation to other similar occupations, such as the general and criminal investigative occupations, which alone cover roughly 20,000 positions.

In addition, H.R. 5094 would create internal inequities with respect to grade. As an example, if two deputy marshals are classified in GS-8, it is because they are doing the same level of work. If one is in step 7 and the other is in step 8, it is because the second has

more time in grade than the first. Yet this bill would move the first one to GS-9 and the second to GS-11. To show the further inequity of this change, the man in step 7 of grade 8 would be increased from \$12,634 to step 10 of grade 9—at a salary of \$15,097, an increase of \$2,463. The man in step 8 of grade 8 would be advanced to step 1 of grade 11, or from a salary of \$12,985 to \$13,996, an increase of only \$1,011—which is \$1,452 less than the employee who was in the step immediately below him. This same inequity would apply also to steps 9 and 10 of grade 8.

This pattern of advancement which this bill establishes is completely chaotic and lacks any semblance of logic, consistency, or fairness.

The average increase per employee under the bill will be as follows:

From GS-4 to GS-5	\$938.00
From GS-5 to GS-7	2,098.00
From GS-6 to GS-7 and GS-9	1,736.00
From GS-7 to GS-9	2,409.00
From GS-8 to GS-9 and GS-11	1,988.00
From GS-9 to GS-11	2,742.00

These increases, in almost all cases, exceed the economic guidelines which the Federal Government has imposed upon both the private sector and (heretofore) upon its own employees. The deputy marshals received the regular 5.14 percent statutory raise last January and will remain eligible for within-grade increases. They have been getting, and will remain eligible for, promotional increases as they are advanced to higher grades. The increases in this bill are in addition to all those, and average out to over 20 percent by themselves.

In summary, the bill would subvert the classification principles upon which the Federal merit system is based; would legislatively establish grade levels for one particular occupation which are known to be incorrect when compared with other similar occupations; would create internal grade inequities among present members of the Marshal Service, which could lead to widespread classification appeals; would create chaotic pay disparities; and would be in direct contravention of the economic guidelines which are supposed to apply indiscriminately to all salaried Americans.

H. R. GROSS,  
*Member of Congress.*  
EDWARD J. DERWINSKI,  
*Member of Congress.*

## RECLASSIFICATION OF DEPUTY U.S. MARSHALS

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JULY 18, 1974.—Ordered to be printed

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

## REPORT

[To accompany H.R. 5094]

The Committee on Post Office and Civil Service, to which was referred the bill (H.R. 5094), having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

## PURPOSE

The purpose of H.R. 5094 is to reclassify the positions of nonsupervisory deputy U.S. marshals at grades GS-5, GS-7, GS-9, or GS-11 of the General Schedule.

## AMENDMENT

The Committee amendment takes cognizance of new classification standards approved by the Civil Service Commission on June 15, 1973, which reclassified many of the positions covered by this bill, though it established grade GS-9 as the full performance level for deputy U.S. marshals, instead of GS-11, as is the case in the bill. The amendment has the effect of applying the reclassification provided for in the bill to individuals who were upgraded by application of the standards approved June 15, 1973, as if the former standards in effect before June 15, 1973, were still effective; the purpose being to insure that no deputy U.S. marshal shall benefit from pyramiding of reclassification actions.

## STATEMENT

H.R. 5094 would fix the grade level of all nonsupervisory deputy U.S. marshal positions, though some incumbents would draw no immediate benefit because their entitlement under the bill already has



been achieved by the action taken by the Civil Service Commission in approving new classification standards governing pay for the occupation on June 15, 1973.

At present, most candidates for deputy U.S. marshal positions enter the service at grade GS-5, where as prior to June 15, 1973, they entered at GS-4 in many cases. Now, they generally progress to full performance level at grade GS-9 in two steps, from GS-5 to GS-7 and from GS-7 to GS-9. Formerly, progress was one grade at a time to full performance level at grade GS-8. The bill would provide an additional advancement, to grade GS-11, which would henceforth be the full performance level for nonsupervisory deputy marshals. GS-11 pay rates now range from \$14,671 to \$19,072.

The duties of deputy U.S. marshals have been expanded in recent years to encompass added responsibility, as was the case beginning in 1970 when they became involved in air piracy prevention, and again in 1971 when they were assigned responsibility for protecting witnesses in Federal proceedings. Another example of the type of hazardous duty performed by deputy U.S. marshals is that of protecting public buildings and facilities against illegal occupancy, as occurred last year at Wounded Knee, South Dakota. Deputy marshals also were assigned to the Virgin Islands following eight politically motivated murders.

In the past five years, according to testimony before the Committee, there have been seven fatalities in the U.S. Marshal Service.

In light of the expanded duties, which far exceed the image of the deputy marshal as a simple process server and bodyguard, the Committee feels that a full performance level at grade GS-11, with appropriate progression to that level, is warranted for deputy marshals.

Similar, but not identical, legislation was passed by Congress during the second session of the 92d Congress, but was vetoed by the President.

#### COMMITTEE ACTION

Hearings were held by the full Committee on September 26, 1973. H.R. 5094 was amended and, as amended, approved by the Committee on a voice vote June 18, 1974.

#### SECTIONAL ANALYSIS

Subsection (a) of the first section of the bill sets forth the policy of Congress that all Federal personnel with law enforcement responsibilities be adequately paid in amounts commensurate with the degree of stress and danger incident to their responsibilities, and that deputy U.S. marshals shall be paid at rates not less than the rates of other law enforcement personnel with similar responsibilities.

Subsection (b) of the first section of the bill amends section 5109 of title 5, United States Code, which relates to positions classified by statute. It adds a new subsection (c) at the end thereof to provide that each position of deputy U.S. marshal (other than a supervisory or managerial position) shall be classified, in accordance with regulations issued by the Civil Service Commission, at GS-5, GS-7, GS-9, or GS-11, except that GS-5 shall be used only for trainees.

S.R. 1022

Under this provision the positions of deputy U.S. marshals will continue to be subject to the classification provisions of chapter 51 and the General Schedule pay provisions of subchapter III of chapter 53 of title 5, United States Code, but the specific grades at which such positions may be classified will be governed by the provisions of the new section 5109(c).

Section 2 of the bill provides for the initial conversion of all deputy U.S. marshals covered by the new subsection (c) of section 5109 of title 5, whether on the rolls on the effective date or whether appointed subsequent to the classification standards approved on June 15, 1973.

Under the conversion provisions of section 2, a deputy U.S. marshal who is in grade GS-4, GS-5, GS-6, GS-8, or GS-9 of the General Schedule immediately before the effective date of section 2 will be elevated to a higher grade of the General Schedule in accordance with the provisions of paragraphs (1) through (8) of subsection (a) of section 2, except that, under the Committee amendment, those who were reclassified as the result of new classification standards approved June 15, 1973, shall be converted to that step and grade which they would have received had the Act applied to them on the date immediately preceding the reclassification action, and those appointed to a position classified under the standards approved June 15, 1973, shall be converted to that step and grade which would have applied had their appointments been made under the standards in effect prior to June 15, 1973.

Paragraphs (1) through (8) set forth the specific grade and step of the grade to which each deputy marshal shall be advanced, according to his grade on the effective date or on the date preceding his reclassification under the standards approved June 15, 1973.

Subsection (b) of section 2 provides that any increase in pay resulting from an initial adjustment under the conversion provisions of subsection (a) of section 2 shall not be deemed to be an equivalent increase within the meaning of section 5335 of title 5 for purposes of step increases, meaning that the employee will not be required to begin a new waiting period for his next step increase as the result of a reclassification accomplished under the conversion provision of subsection (a).

Further, subsection (b) provides that service performed by an employee immediately before the effective date of the conversion of the employee under subsection (a) of section 2 shall count toward only one step-increase under the time-in-step provisions of 5 U.S.C. 5335.

Subsection (c) of section 2 provides that no rate of basic pay in effect immediately before the effective date of section 2 shall be reduced by reason of the enactment of this bill.

Section 3 of the bill provides that the provisions of the bill shall become effective at the beginning of the first applicable pay period which begins on or after the date of enactment of the bill.

#### Costs

The Civil Service Commission estimates the annual cost of H.R. 5094 at \$1.9 million annually. Assuming annual pay increases of 5.5 percent, the cost would rise to \$2.3 million on an annual basis by the fifth year. Exact costs are difficult to determine, as that would require

a position-by-position determination of the effect of the bill upon individual deputy marshals, which has not been done.

#### AGENCY VIEWS

The Administration has taken a position in opposition to H.R. 5094 and the similar Senate bill S. 1123, which is expressed in the following views from the Office of Management and Budget and the Civil Service Commission.

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,  
Washington, D.C., November 5, 1973.

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

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Office on S. 1123, "To amend title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes."

S. 1123 and H.R. 5094, which is also pending before your Committee, would upgrade the position of deputy United States marshal by prescribing statutory grade levels which are one, two and even three grades above present classification levels for such work. This would be effected without regard to the difficulty of the work performed or to relationships with other similar positions; and would be imposed despite the fact that many deputy marshal positions were reclassified in July 1973, as a result of new job and qualification standards issued by the Civil Service Commission.

In reports and testimony, the Civil Service Commission and the Department of Justice stated their reasons for strongly opposing enactment of special pay legislation for this group of employees. Both agencies stated that the bills would destroy the essential relationship between pay and job classification, thereby discriminating against all other employees under the General Schedule system, and most particularly against other law enforcement personnel. The agencies also note that H.R. 13895, similar legislation of the 92d Congress, was disapproved by the President in October of 1972 and that enactment of special pay legislation for one group would lead ultimately to demands by others for equally preferential treatment.

We concur in the views expressed by the Civil Service Commission and the Department of Justice and, accordingly, strongly recommend against enactment of S. 1123 or H.R. 5094. Enactment of S. 1123 or H.R. 5094 would not be in accord with the program of the President.

Sincerely,

WILFRED H. ROMMEL,  
Assistant Director for  
Legislative Reference.

U.S. CIVIL SERVICE COMMISSION,  
Washington, D.C., September 24, 1973.

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

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Civil Service Commission on S. 1123, "To amend title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes."

The bill would classify deputy U.S. marshals at GS-5, GS-7, GS-9, or GS-11, with the GS-5 level being the trainee level. Within these ranges, the step rate for each employee would be determined by the "appropriate authority" depending upon the employee's (1) general performance of duties as a deputy United States marshal, (2) the number of years of service as a deputy United States marshal, and (3) ability to accept responsibilities as a deputy United States marshal. The bill contains provisions to convert the present incumbents from the grades they have been assigned by the classification process to those which would be created by statutory enactment.

The Civil Service Commission is strongly opposed to enactment of both S. 1123 and the House-passed H.R. 5094. Both bills—

- Are contrary to the most fundamental principles of position classification and pay administration.
- Would subvert the statutory principle of equal pay for equal work, creating severe inequities between deputy U.S. marshals and the other 1.2 million General Schedule employees (especially those in other law-enforcement occupations).
- Would place deputy marshals performing identical work in different grades.
- Would stop the present practice of employing veterans under special hiring programs such as the Veterans Readjustment Act.

The Civil Service Commission recently completed an occupational study of the deputy marshal occupation. The study found that the occupation needed substantial restructuring, including a change from a one to a two-grade interval progression for promotions, and an increase in the typical journeyman level from the GS-8 to the GS-9 level. Those changes in the occupation were carried out through the approval, in June of this year, of new qualification and classification standards for the occupation.

One of the specific findings of the occupational study was that the GS-11 level is simply not warranted for the typical journeyman position in the Marshals Service. The study included, for example, a comparison of deputy marshal and investigative positions. The Commission's standard for investigative positions shows that GS-11 investigators are responsible for the independent handling of an entire case. The characteristics and specific examples given in the standards for investigative positions indicate that the full performance level of

deputy marshals does not match the GS-11 level. Deputy marshals are almost exclusively limited to one aspect of the cases described at this level, i.e. location and apprehension of the subject. Seizure of property is also limited in scope. There is no need to establish any case concerning the property. The deputy identifies, seizes, and protects the property. The rest of the case relating to the property is the concern of others. To place these positions at the GS-11 level would therefore be in conflict with the policy of equal pay for equal work.

That policy would be even more blatantly violated by the grade conversion provisions of S. 1123 and H.R. 5094. Those provisions would place deputies performing identical work in different grades by assigning grades based on the previous within-grade (pay) step held by each deputy. The Service also includes a substantial number of nonsupervisory deputies at the GS-11 level. These deputies are performing higher level duties than the typical journeyman, and are correctly aligned with grades in other occupations. Under S. 1123 and H.R. 5094, they would be placed in the same grade as the journeyman deputy.

The bills can be expected to reduce the hiring of veterans by the Marshals Service. The service has encouraged the hiring of veterans through the Veterans Readjustment Act by filling positions below the normal trainee level. This practice has permitted the hiring and training of veterans who could not meet all of the normal entry requirements. S. 1123 and H.R. 5094 would stop this and similar programs by saying that "in no event" would positions be filled below the GS-5 level.

The bills have one other serious impact which is potentially more damaging than all the rest. By granting preferential treatment to this occupation, they encourage the myriad groups wishing similar preferential treatment. Such a fragmented approach to personnel management could eventually drive the classification and pay systems of the Federal service into unmanageable chaos.

In summary, we consider S. 1123 and H.R. 5094 to be totally unwarranted and potentially destructive pieces of legislation which provides no benefit to the management of law enforcement positions not already more appropriately available through the Commission's recently issued standards. Similar legislation, H.R. 13895 of the 92nd Congress, was disapproved by President Nixon last year because of the highly preferential treatment it would have afforded deputy marshals.

The Office of Management and Budget advises that there is no objection to the submission of this report, and that enactment of S. 1123 or H.R. 5094 would not be in accord with the program of the President.

By direction of the Commission:

Sincerely yours,

ROBERT E. 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 re-

ported 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 matter is shown in italic):

#### TITLE 5, UNITED STATES CODE

\* \* \* \* \*

#### CHAPTER 51.—CLASSIFICATION

\* \* \* \* \*

#### SEC. 5109. POSITIONS CLASSIFIED BY STATUTE

(a) The position held by an employee of the Department of Agriculture while he, under section 450d of title 7, is designated and vested with a delegated regulatory function or part thereof shall be classified in accordance with this chapter, but not lower than GS-14.

(b) The position held by the employee appointed under section 1104 (a) (2) of this title to have such functions and duties with respect to retirement, life insurance, and health benefits programs as the Civil Service Commission may prescribe is classified at GS-18, and is in addition to the number of positions authorized by section 5108(a) of this title.

(c) *Each position of deputy United States marshal (other than a supervisory or managerial position) shall be classified, in accordance with regulations issued by the Civil Service Commission, at GS-5, GS-7, GS-9, or GS-11, except that GS-5 shall be used only for a trainee.*

\* \* \* \* \*

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8/12

# 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 title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) it is the policy of the Congress that personnel discharging law enforcement responsibilities be adequately paid, in amounts commensurate with the degree of danger and stress incident to these responsibilities; and that, to this end, deputy United States marshals shall be paid at rates not less than the rates at which other law enforcement personnel are paid.*

(b) Section 5109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

“(c) Each position of deputy United States marshal (other than a supervisory or managerial position) shall be classified, in accordance with regulations issued by the Civil Service Commission, at GS-5, GS-7, GS-9, or GS-11, except that GS-5 shall be used only for a trainee.”

SEC. 2. (a) Effective on the effective date of this section, a non-supervisory deputy United States Marshal on the rolls on such date to which the amendments made by the first section of this Act apply, shall be converted as follows, except that each nonsupervisory deputy marshal (1) who was reclassified as the result of new classification standards approved June 15, 1973, shall be converted to that step and grade which he would have received had this Act applied to him on the date immediately preceding the reclassification action, or (2) who was appointed to a position classified under the classification standards approved June 15, 1973, shall be converted to that step and grade which he would have received had his position been classified under the classification standards which were in effect before June 15, 1973:

(1) a deputy United States marshal in GS-4 immediately before the effective date of this section shall be advanced to that step of GS-5 which corresponds numerically to that step of GS-4 which he had attained immediately before such effective date;

(2) a deputy United States marshal in GS-5 immediately before the effective date of this section shall be advanced to that step of GS-7 which corresponds numerically to that step of GS-5 which he had attained immediately before such effective date;

(3) a deputy United States marshal in step 1, 2, 3, 4, 5, 6, or 7, respectively, of GS-6 immediately before the effective date of this section shall be advanced to step 4, 5, 6, 7, 8, 9, or 10, respectively, of GS-7;

(4) a deputy United States marshal in step 8, 9, or 10, respectively, of GS-6 immediately before the effective date of this section shall be advanced to step 1, 2, or 3, respectively, of GS-9;

(5) a deputy United States marshal in GS-7 immediately before the effective date of this section shall be advanced to that step of GS-9 which corresponds numerically to that step of GS-7 which he had attained immediately before such effective date;

(6) a deputy United States marshal in step 1, 2, 3, 4, 5, 6, or 7, respectively of GS-8 immediately before the effective date of this section shall be advanced to step 4, 5, 6, 7, 8, 9, or 10, respectively, of GS-9;



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(7) a deputy United States marshal in step 8, 9, or 10, respectively, of GS-8 immediately before the effective date of this section shall be advanced to step 1, 2, or 3, respectively, of GS-11; and

(8) a deputy United States marshal in GS-9 immediately before the effective date of this section shall be advanced to that step of GS-11 which corresponds numerically to that step of GS-9 which he had attained immediately before such effective date.

(b) An increase in pay by reason of an initial adjustment of pay under subsection (a) of this section shall not be deemed an equivalent increase in pay within the meaning of section 5335 of title 5, United States Code, for purposes of step-increases. Service by an employee performed immediately before the effective date of the conversion of the employee under subsection (a) of this section shall be counted toward not to exceed one step-increase under the time-in-step provisions of section 5335 of title 5, United States Code.

(c) No rate of basic pay in effect immediately before the effective date of this section shall be reduced by reason of the enactment of this Act.

SEC. 3. The preceding provisions of this Act shall become effective at the beginning of the first applicable pay period which commences on or after the date of enactment of this Act.

*Speaker of the House of Representatives.*

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



# 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 title 5, United States Code, to provide for the reclassification of positions of deputy United States marshal, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) it is the policy of the Congress that personnel discharging law enforcement responsibilities be adequately paid, in amounts commensurate with the degree of danger and stress incident to these responsibilities; and that, to this end, deputy United States marshals shall be paid at rates not less than the rates at which other law enforcement personnel are paid.*

(b) Section 5109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

“(c) Each position of deputy United States marshal (other than a supervisory or managerial position) shall be classified, in accordance with regulations issued by the Civil Service Commission, at GS-5, GS-7, GS-9, or GS-11, except that GS-5 shall be used only for a trainee.”

SEC. 2. (a) Effective on the effective date of this section, a non-supervisory deputy United States Marshal on the rolls on such date to which the amendments made by the first section of this Act apply, shall be converted as follows, except that each nonsupervisory deputy marshal (1) who was reclassified as the result of new classification standards approved June 15, 1973, shall be converted to that step and grade which he would have received had this Act applied to him on the date immediately preceding the reclassification action, or (2) who was appointed to a position classified under the classification standards approved June 15, 1973, shall be converted to that step and grade which he would have received had his position been classified under the classification standards which were in effect before June 15, 1973:

(1) a deputy United States marshal in GS-4 immediately before the effective date of this section shall be advanced to that step of GS-5 which corresponds numerically to that step of GS-4 which he had attained immediately before such effective date;

(2) a deputy United States marshal in GS-5 immediately before the effective date of this section shall be advanced to that step of GS-7 which corresponds numerically to that step of GS-5 which he had attained immediately before such effective date;

(3) a deputy United States marshal in step 1, 2, 3, 4, 5, 6, or 7, respectively, of GS-6 immediately before the effective date of this section shall be advanced to step 4, 5, 6, 7, 8, 9, or 10, respectively, of GS-7;

(4) a deputy United States marshal in step 8, 9, or 10, respectively, of GS-6 immediately before the effective date of this section shall be advanced to step 1, 2, or 3, respectively, of GS-9;

(5) a deputy United States marshal in GS-7 immediately before the effective date of this section shall be advanced to that step of GS-9 which corresponds numerically to that step of GS-7 which he had attained immediately before such effective date;

(6) a deputy United States marshal in step 1, 2, 3, 4, 5, 6, or 7, respectively of GS-8 immediately before the effective date of this section shall be advanced to step 4, 5, 6, 7, 8, 9, or 10, respectively, of GS-9;



H. R. 5094—2

(7) a deputy United States marshal in step 8, 9, or 10, respectively, of GS-8 immediately before the effective date of this section shall be advanced to step 1, 2, or 3, respectively, of GS-11; and

(8) a deputy United States marshal in GS-9 immediately before the effective date of this section shall be advanced to that step of GS-11 which corresponds numerically to that step of GS-9 which he had attained immediately before such effective date.

(b) An increase in pay by reason of an initial adjustment of pay under subsection (a) of this section shall not be deemed an equivalent increase in pay within the meaning of section 5335 of title 5, United States Code, for purposes of step-increases. Service by an employee performed immediately before the effective date of the conversion of the employee under subsection (a) of this section shall be counted toward not to exceed one step-increase under the time-in-step provisions of section 5335 of title 5, United States Code.

(c) No rate of basic pay in effect immediately before the effective date of this section shall be reduced by reason of the enactment of this Act.

Sec. 3. The preceding provisions of this Act shall become effective at the beginning of the first applicable pay period which commences on or after the date of enactment of this Act.

*Speaker of the House of Representatives.*

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

July 31, 1974

Dear Mr. Director:

The following bills were received at the White House on July 31st:

H.R. 5094

H.R. 14592

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.

