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86/15/76

APPROVED

JUN 15 1976

THE WHITE HOUSE

WASHINGTON

June 14, 1976

ACTION

Last Day: June 16

Posted  
6/16/76  
Archives  
6/16/76

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON

SUBJECT:

H.R. 11438 - Court Leave for  
Federal Employees

Attached for your consideration is H.R. 11438, sponsored by Representative White and nine others.

The enrolled bill would authorize court leave for Federal employees who are summoned to appear as a witness in a judicial proceeding in which the Federal Government, the District of Columbia government or a State or local government is a part. The enrolled bill also contains an unrelated technical amendment which would authorize the carry over of unobligated appropriations for Government contributions under the Federal employees and retirees health benefits laws for use in succeeding years until expended.

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

RECOMMENDATION

That you sign H.R. 11438 at Tab B.





EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

JUN 10 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 11438 - Court leave for  
Federal employees  
Sponsor - Rep. White (D) Texas and 9 others

Last Day for Action

June 16, 1976 - Wednesday

Purpose

Expands existing court leave law to cover witness service by Federal employees on behalf of private parties in court proceedings where one of the parties is the United States, the District of Columbia Government, or a State or local government; authorizes unobligated balances of appropriations for Government contributions to employee and retiree health insurance programs to remain available until expended.

Agency Recommendations

Office of Management and Budget	Approval
Civil Service Commission	Approval
Department of Justice	No objection

Discussion

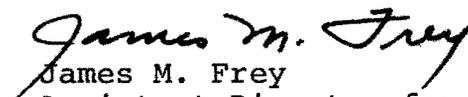
Under existing law, a Federal, District of Columbia (D.C.) or congressional employee summoned in his personal capacity to appear in a judicial proceeding on behalf of a State or local government is entitled to "court leave," that is, to continued regular pay without charge to annual leave. In addition, such employee is deemed to be performing official duty if summoned to testify or produce official records on behalf of the Federal or D.C. Government, or if summoned to testify in his official capacity or to produce official records on behalf of any party in a court proceeding.

These provisions do not apply, however, when a Federal, D.C., or congressional employee is summoned to testify in a personal capacity on behalf of private parties. In such case the employee must take annual leave or leave without pay. For example, in a criminal case an employee is entitled to court leave if he is summoned by a State or local government as a prosecution witness but not if he is called as a defense witness. H.R. 11438 would eliminate this inequity by extending court leave to a Federal, D.C. or congressional employee summoned as a witness on behalf of either side in a court proceeding in which the United States, the D.C. Government, or a State or local government is a party.

The Civil Service Commission (CSC) supported this bill in the course of congressional consideration, and noted that the Administration had supported such an extension of court leave as early as 1969. CSC stated that the administration of justice requires impartiality, and that it should not be more advantageous financially for an employee to appear as a witness for a governmental party than for a private party in the same lawsuit.

CSC estimates that the number of employees called as witnesses by private parties in litigation involving a governmental unit is negligible and that the cost of extending court leave in such instances would be small.

The enrolled bill also contains an unrelated technical amendment which would authorize the carry over of unobligated appropriations for Government contributions under the Federal employees and retirees health benefits laws for use in succeeding years until expended. The amendment would make it unnecessary to continue the recent practice of including such authority in annual appropriations acts, where it is subject to a point of order. CSC indicates that this provision will involve no additional costs and will greatly simplify its accounting.

  
James M. Frey  
Assistant Director for  
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 11

Time: 245pm

FOR ACTION: David Lissy *DL*  
Dick Parsons *DP*  
Max Friedersdorf  
Ken Lazarus *KL*

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

FROM THE STAFF SECRETARY

DUE: Date: June 14

Time: 1100am

SUBJECT:

H.R. 11438 - Court leave for federal employees

ACTION REQUESTED:

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

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

K. R. COLE, JR.  
For the President



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

June 8, 1976

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

Dear Mr. Lynn:

This is in response to your request for the Commission's views and recommendations on enrolled bill H.R. 11438 "To amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes."

H.R. 11438 will eliminate the inequities between employees who are eligible for court leave when they appear as witnesses on behalf of a State or local government, and those who are now required to take annual leave or leave without pay when they appear as witnesses on behalf of a private party in a judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party.

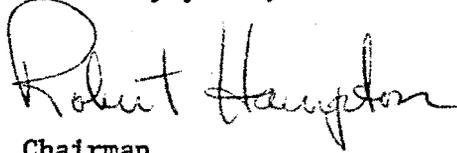
Inquiries made to several agencies in August 1975 indicated that data on the amount of court leave (or other leave for witness purposes) authorized for Federal employees was not available. It was the opinion of those persons contacted that the amount of leave for this purpose was relatively insignificant. Therefore, it appears reasonable to assume that the number of additional employees who will be granted court leave as a result of this proposed legislation will be negligible and the additional costs incurred will be small. Offsetting benefits are foreseen in increased employee morale, and the improvement in law enforcement and administration of justice by removal of some of the barriers to obtaining needed witnesses in judicial proceedings.

Section 3 of H.R. 11438 contains technical amendments to the Federal Employees Health Benefits Law and the Retired Employees Health Benefits Act which will provide statutory authority for the Commission to carry over the unobligated balance of funds allowed under the appropriation "Government Payment for Annuitants, Employees Health Benefits" for use the following year. It will involve no additional costs and will greatly simplify the Commission's accounting.

We recommend that the President sign enrolled bill H.R. 11438 for the reasons stated above.

By direction of the Commission:

Sincerely yours,

A handwritten signature in cursive script that reads "Robert Houghton". The signature is written in dark ink and is positioned above the printed name "Chairman".

Chairman

**Department of Justice**  
**Washington, D. C. 20530**

June 10, 1976

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

Dear Mr. Lynn:

I have examined a facsimile of the enrolled bill, H.R. 11438, "To grant court leave on Federal employees when called as witnesses in certain judicial proceedings, and for other purposes."

The Department of Justice has no objection to Executive approval of this legislation.

Sincerely,



Michael M. Uhlmann  
Assistant Attorney General

6/16

Mr. Jones -

To add to the file,  
please. Thanks.

Kate



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

DATE: 6-16-76

TO: Bob Linder

FROM: Jim Frey

Attached is the Civil Service Commission's views letter on H.R. 11438, for inclusion in the enrolled bill file.  
Thanks.



UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

June 8, 1976

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

Dear Mr. Lynn:

This is in response to your request for the Commission's views and recommendations on enrolled bill H.R. 11438 "To amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes."

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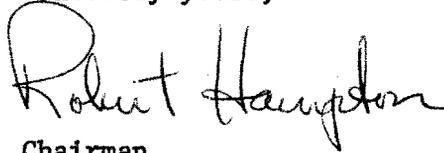
Inquiries made to several agencies in August 1975 indicated that data on the amount of court leave (or other leave for witness purposes) authorized for Federal employees was not available. It was the opinion of those persons contacted that the amount of leave for this purpose was relatively insignificant. Therefore, it appears reasonable to assume that the number of additional employees who will be granted court leave as a result of this proposed legislation will be negligible and the additional costs incurred will be small. Offsetting benefits are foreseen in increased employee morale, and the improvement in law enforcement and administration of justice by removal of some of the barriers to obtaining needed witnesses in judicial proceedings.

Section 3 of H.R. 11438 contains technical amendments to the Federal Employees Health Benefits Law and the Retired Employees Health Benefits Act which will provide statutory authority for the Commission to carry over the unobligated balance of funds allowed under the appropriation "Government Payment for Annuitants, Employees Health Benefits" for use the following year. It will involve no additional costs and will greatly simplify the Commission's accounting.

We recommend that the President sign enrolled bill H.R. 11438 for the reasons stated above.

By direction of the Commission:

Sincerely yours,

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

Chairman

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 11

Time: 245pm

FOR ACTION: David Lissy  
Dick Parsons  
Max Friedersdorf  
Ken Lazarus

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

FROM THE STAFF SECRETARY

DUE: Date: June 14

Time: 1100am

SUBJECT:

H.R. 11438 - Court leave for federal employees

ACTION REQUESTED:

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

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*6/11  
Recommend Approval.  
[Signature]*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

James M. Cannon  
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

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SUBJECT:

H.R. 11438 - Court leave for federal employees

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

*Approve. RD*

Please return to Judy Johnston, Ground Floor West Wing

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

James M. Cannon  
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

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DUE: Date: June 14

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SUBJECT:

H.R. 11438 - Court leave for federal employees

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection -- Ken Lazarus 6/14/76

**PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

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

James M. Cannon  
For the President

THE WHITE HOUSE

WASHINGTON

June 14, 1976

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: MAX L. FRIEDERSDORF *m-l.*  
SUBJECT: HR 11438 - Court leave for federal employees

The Office of Legislative Affairs concurs with the agencies  
that the subject bill be signed.

Attachments

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

JUN 10 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 11438 - Court leave for  
Federal employees  
Sponsor - Rep. White (D) Texas and 9 others

Last Day for Action

June 16, 1976 - Wednesday

Purpose

Expands existing court leave law to cover witness service by Federal employees on behalf of private parties in court proceedings where one of the parties is the United States, the District of Columbia Government, or a State or local government; authorizes unobligated balances of appropriations for Government contributions to employee and retiree health insurance programs to remain available until expended.

Agency Recommendations

Office of Management and Budget	Approval
Civil Service Commission	Approval
Department of Justice	No objection

Discussion

Under existing law, a Federal, District of Columbia (D.C.) or congressional employee summoned in his personal capacity to appear in a judicial proceeding on behalf of a State or local government is entitled to "court leave," that is, to continued regular pay without charge to annual leave. In addition, such employee is deemed to be performing official duty if summoned to testify or produce official records on behalf of the Federal or D.C. Government, or if summoned to testify in his official capacity or to produce official records on behalf of any party in a court proceeding.

## COURT LEAVE FOR FEDERAL EMPLOYEES

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FEBRUARY 9, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

### REPORT

[To accompany H.R. 11438]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 11438) to amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE

The primary purpose of this legislation is to authorize court leave for Federal employees who are summoned to appear as a witness in a judicial proceeding in which the Federal government, the District of Columbia government, or a State or local government is a party. In addition, this legislation would permit the Civil Service Commission to retain the unobligated balance of funds under the appropriation "Government Payment for Annuitants, Employees Health Benefit's beyond the end of the fiscal year.

#### COMMITTEE ACTION

On September 11 and 18, 1975, the Subcommittee on Retirement and Employee Benefits held hearings on the bill H.R. 8094 which contained provisions similar to those in H.R. 11438 (serial no. 94-43). On September 29, 1975, the Subcommittee approved, by an unanimous voice vote, a clean bill in lieu of H.R. 8904, which was introduced as H.R. 9994. Subsequently, in order to comply with the provisions of the Congressional Budget Act of 1974, it was necessary to add an effective date provision. Accordingly, a second clean bill, H.R. 11438, which is identical to H.R. 9994, except for the effective date provision, was introduced. On January 29, 1976, the Committee on Post Office and

Civil Service, by unanimous voice vote, ordered H.R. 11438 reported to the House.

#### STATEMENT

Under existing law (5 U.S.C. 6322) Federal employees (other than Congressional employees) and employees of the Government of the District of Columbia are entitled to leave, without loss of, or reduction in, pay, leave to which they are otherwise entitled, credit for time or service, or performance or efficiency rating, when they are summoned to serve as a juror or appear as a witness on behalf of a State or local Government. If an employee is requested to testify or produce official records on behalf of the United States or the District of Columbia, or is required to testify in his official capacity as an employee on behalf of any party, he is considered to be performing official duty for which he receives his normal pay. A similar provision in section 6(b)(2) of the act, approved December 19, 1970 (Public Law 91-563; 2 U.S.C. 130(b)(2)) provides identical leave rights for congressional employees.

The committee believes that the existing law creates an inequity since an employee who is summoned to appear as a witness on behalf of a State or local government is granted court leave, while, in most instances, an employee summoned on behalf of a private party in the same proceeding is not entitled to court leave and, therefore, must use annual leave or take leave-without-pay in order to fulfill his citizen obligation to appear as a witness. For example, in a criminal case an employee is entitled to court leave if he is summoned by the State as a prosecution witness. If, however, he is summoned to appear as a defense witness, he is not entitled to court leave under existing law. H.R. 11438 corrects this inequity by authorizing court leave whenever an employee is summoned by any party to appear as a witness in a judicial proceeding in which the United States, the District of Columbia, or a State or local government is a party.

The committee is aware that the existing restrictions on court leave have caused hardship in many instances by, in effect, penalizing employees through either loss of pay or annual leave. Further, the existing law may discriminate against a private party since employees may understandably be reluctant to come forward as witnesses when told to do so would be to their financial detriment.

Section 3 of the bill amends provisions relating to the Federal Employees Health Benefits Program [5 U.S.C. 8906(g)] and provisions relating to the Retired Federal Employees Health Benefits Act [Public Law 86-724] in order to permit the appropriations for the Government contributions for annuitants under those two programs to be made available until expended.

It has been the practice for annual appropriation acts making appropriations available to pay the contributions for annuitants under these programs "to be made available until expended." Such language is considered as being legislative language and, if included in an appropriation act, subjects the appropriation bill to a point of order on the floor of the House under House Rule XXI, clause 2, which provides, in part, that any provision in an appropriation bill changing existing law shall not be in order.

The provisions of section 3 will provide the necessary authorizing legislation for amounts in the appropriation acts to be made available until expended and remove the necessity of including such a provision in the annual appropriation acts.

#### SECTION ANALYSIS

The first section of H.R. 11438 amends section 6322(a)(2) of title 5, United States Code, to provide that an employee, as defined in section 2105 of title 5 (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives), who is summoned to appear as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party, is entitled to leave, without loss of, or reduction in, pay, leave to which he is otherwise entitled, credit for time or service, or performance or efficiency rating. The phrase "other than as provided in subsection (b) of this section" reflects the fact that under existing law (5 U.S.C. 6322(b)), when an employee is summoned to (1) testify or produce official records on behalf of the United States or the District of Columbia, or (2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia, the employee is deemed to be performing official duty and receives his pay accordingly. In such instances, it is unnecessary to provide for court leave.

Section 2 of the bill which amends section 6(b)(2) of the act approved December 19, 1970 (Public Law 91-563; 2 U.S.C. 130b(b)(2)), relating to court leave for individuals whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives, is identical to the provisions of the first section of the bill, relating to court leave for other Federal employees.

Section 3(a) of the bill amends subsection (g) of section 8906 of title 5, United States Code, by adding at the end of that subsection the phrase "and which may be made available until expended". Section 3(b) of the bill adds identical language at the end of Section 10 of the Retired Federal Employees Health Benefits Act of 1960 (74 Stat. 849).

Section 4 of the bill provides that the Act shall become effective on October 1, 1976, or on the date of enactment, whichever is later.

#### ESTIMATED COSTS

The Administration was unable to provide statistics from which the committee could estimate the cost of this legislation. It appears reasonable to assume, however, that the number of employees who are called as witnesses for private parties in judicial proceedings involving a State or local government of the Federal or District of Columbia government as a party, is negligible. Accordingly, any costs to the government resulting from the enactment of this legislation would be negligible.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to House Rule XI, clause 2(1)(4) the committee has determined that the enactment of this legislation will not have an infla-

tionary impact on prices and costs in the operation of the National economy in view of the negligible additional cost involved.

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

With respect to the requirements of Clause 2(1) (3) of House Rule XI—

(a) the Subcommittee on Retirement and Employee Benefits reviewed the provisions of law relating to court leave for Federal employees and concluded that the law should be amended in the manner provided under this legislation;

(b) this legislation does not provide new budget authority or new or increased tax expenditures for a fiscal year, and accordingly no statement is required pursuant to section 308(a) of the Congressional Budget Act of 1974;

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

(d) the committee has no report from the Committee on Government Operations of oversight findings or recommendations arrived at pursuant to clause 2(b) (2) of House Rule X.

AGENCY VIEWS

The reports of the Office of Management and Budget, the United States Civil Service Commission, and the General Accounting Office on this legislation are set forth below.

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,  
Washington, D.C., September 10, 1975.

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

DEAR MR. CHAIRMAN: This is in reply to the Committee's request for the views of this Office on H.R. 8094, "To amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings."

The purpose of H.R. 8094 is to grant court leave for witness service on behalf of private parties in litigation in which one of the parties is a State or local government.

In its report, the Civil Service Commission suggests that the bill be expanded to grant court leave for appearances on behalf of private parties where the Federal or District of Columbia governments are parties to the action.

We concur in the views expressed by the Civil Service Commission and, accordingly, recommend enactment of H.R. 8094, amended as suggested by the Commission.

Sincerely,

JAMES M. FREY,  
Assistant Director for Legislative Reference.

U.S. CIVIL SERVICE COMMISSION,  
Washington, D.C., September 10, 1975.

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

DEAR MR. CHAIRMAN: This is in further response to your request for the Commission's views on H.R. 8094, a bill to entitle employees who serve as witnesses on behalf of any party (other than the United States or the District of Columbia) in connection with any judicial proceeding to which a State or local government is a party, to court leave.

The Commission supports enactment of the proposed legislation. In testifying for the Civil Service Commission on H.R. 10247, which was superseded by H.R. 12979 (Public Law 91-563), 91st Congress, Mr. Anthony L. Mondello, then General Counsel, stated as follows:

"While we endorse H.R. 10247, we feel that it stops short of the Government's doing what it reasonably can do to promote the administration of justice. For example, H.R. 10247 would restrict leave to employees called as witnesses on behalf of State and local governments. If a man steps forward as a witness in the interests of criminal justice but is called by the defense rather than the State, he would not be entitled to leave under the provisions of H.R. 10247. Knowing in advance that he alone would bear the cost of this civic burden might deter an employee from being eager to step forward in the first place.

"It is the very nature of justice that it be impartial. We think it would be inappropriate to make it more advantageous financially for the Government employee to appear as a witness for the State than for the other party to the proceeding. Moreover, it is not always possible to know in advance that the testimony given by a particular witness will benefit the party who calls him. We think that considerations of what party will benefit from testimony is irrelevant to the Government's higher concerns for the proper administration of justice."

H.R. 8094 will provide the impartiality sought in the prior testimony. This proposed legislation will expand present court leave provisions by eliminating the inequities between employees who are eligible for court leave when they appear as witnesses on behalf of a State or local government and those employees who are required to take annual leave or leave without pay when they appear as witnesses on behalf of a private party in a judicial proceeding to which a State or local government is a party. Although the latter group of employees are allowed to keep court fees, the fees from State and local courts are such that they do not compensate for the loss of leave or pay.

The Commission notes that the bill, perhaps through oversight, does not cover Federal employees and District of Columbia employees when serving as witnesses on behalf of private parties in cases involving the United States Government or the government of the District of Columbia. We believe that these situations should also be covered and recommend that the bill be amended by inserting in line 9, after "local government" the following: ", the United States, or the District of Columbia."

Statistics are not available for the purpose of estimating costs, but it appears reasonable to assume that the number of employees who are

called as witnesses for private parties in judicial proceedings involving a State or local government or the Federal or District of Columbia government as a party, is negligible, and the additional costs incurred for court leave will be small. Offsetting benefits are foreseen in increased employee morale, and in the improvement of law enforcement and administration of justice by removal of some of the barriers to obtaining needed witnesses in judicial proceedings.

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

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,  
*Chairman.*

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., September 19, 1975.*

B-143939.

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

DEAR MR. CHAIRMAN: We refer to your letter of August 7, 1975, requesting our views and comments on H.R. 8094, which, if enacted, would grant court leave to Federal employees when called as witnesses on behalf of any party other than the United States or the District of Columbia in connection with any judicial proceeding to which a State or local government is a party.

The bill would have the effect of permitting Federal employees, without loss of pay or leave, to serve as witnesses for any party in a court proceeding where one of the parties is a State or local government. Under existing law, Federal employees may not receive court leave when serving as witnesses on behalf of a private party. In certain cases, the current law could serve to place a private party at a relative disadvantage, *vis-a-vis*, a State or local government, because Federal employee witnesses would not be penalized for appearing on behalf of the State or local government while such witnesses would have to use annual leave to appear on behalf of a private party. The amendment proposed by H.R. 8094 would correct this inequity, and thereby promote justice.

We have no reason to object to the enactment of H.R. 8094.

Sincerely yours,

PAUL G. DEMBLING,  
(For the Comptroller General  
of the United States).

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as re-

ported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

## TITLE 5, UNITED STATES CODE

\* \* \* \* \*

### CHAPTER 63—LEAVE

\* \* \* \* \*

#### SUBCHAPTER II—OTHER PAID LEAVE

\* \* \* \* \*

#### § 6322. Leave for jury or witness service; official duty status for certain witness service

(a) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia is entitled to leave, without loss of, or reduction in, pay, leave to which he otherwise is entitled, credit for time or service, or performance of efficiency rating, during a period of absence with respect to which he is summoned, in connection with a judicial proceeding, by a court or authority responsible for the conduct of that proceeding, to serve—

(1) as a juror; or

[(2) as a witness on behalf of a party other than the United States, the District of Columbia, or a private party;]

(2) *other than as provided in subsection (b) of this section, as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party;*

in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For the purpose of this subsection, "judicial proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

\* \* \* \* \*

### CHAPTER 89—HEALTH INSURANCE

#### § 8906. Contributions

(a) The Commission shall determine the average of the subscription charges in effect on the beginning date of each contract year with respect to self alone or self and family enrollments under this chapter, as applicable, for the highest level of benefits offered by—

(1) the service benefit plan;

(2) the indemnity benefit plan;

(3) the two employee organization plans with the largest number of enrollments, as determined by the Commission; and

(4) the two comprehensive medical plans with the largest number of enrollments, as determined by the Commission.

(b)(1) Except as provided by paragraph (2) of this subsection, the biweekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter shall be adjusted, beginning on the first day of the first applicable pay period of each year, to an amount equal to the following percentage, as applicable, of the average subscription charge determined under subsection (a) of this section: 50 percent for applicable pay periods commencing in 1974 and 60 percent for applicable pay periods commencing in 1975 and in each year thereafter.

(2) The biweekly Government contribution for an employee or annuitant enrolled in a plan under this chapter shall not exceed 75 percent of the subscription charge.

(c) There shall be withheld from the pay of each enrolled employee and the annuity of each enrolled annuitant and there shall be contributed by the Government, amounts, in the same ratio as the contributions of the employee or annuitant and the Government under subsection (b) of this section, which are necessary for the administrative costs and the reserves provided for by section 8909(b) of this title.

(d) The amount necessary to pay the total charge for enrollment, after the Government contribution is deducted, shall be withheld from the pay of each enrolled employee and from the annuity of each enrolled annuitant. The withholding for an annuitant shall be the same as that for an employee enrolled in the same health benefits plan and level of benefits.

(e)(1) An employee enrolled in a health benefits plan under this chapter who is placed in a leave without pay status may have his coverage and the coverage of members of his family continued under the plan for not to exceed 1 year under regulations prescribed by the Commission. The regulations may provide for the waiving of contributions by the employee and the Government.

(2) An employee who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by section 8901 of this title, within 60 days after entering on that leave without pay, may file with his employing agency an election to continue his health benefits enrollment and arrange to pay currently into the Employees Health Benefits Fund, through his employing agency, both employee and agency contributions from the beginning of leave without pay. The employing agency shall forward the enrollment charges so paid to the Fund. If the employee does not so elect, his enrollment will continue during non-pay status and end as provided by paragraph (1) of this subsection and implementing regulations.

(f) The Government contributions for health benefits for an employee shall be paid—

(1) in the case of employees generally, from the appropriation or fund which is used to pay the employee;

(2) in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment;

(3) in the case of an employee of the legislative branch who is paid by the Clerk of the House of Representatives, from the contingent fund of the House; and

(4) in the case of an employee in a leave without pay status, from the appropriation or fund which would be used to pay the employee if he were in a pay status.

(g) The Government contributions authorized by this section for health benefits for an annuitant shall be paid from annual appropriations which are authorized to be made for that purpose and which may be made available until expended.

(h) The Commission shall provide for conversion of biweekly rates of contribution specified by this section to rates for employees and annuitants paid on other than a biweekly basis, and for this purpose may provide for the adjustment of the converted rate to the nearest cent.

\* \* \* \* \*

SECTION 6 OF PUBLIC LAW 91-653

AN ACT To amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia

\* \* \* \* \*  
SEC. 6. (a)

\* \* \* \* \*

(b) The pay of an employee shall not be reduced during a period of absence with respect to which the employee is summoned (and permitted to respond to such summons by the appropriate authority of the House of the Congress disbursing his pay), in connection with a judicial proceeding by a court or authority responsible for the conduct of that proceeding, to serve—

(1) as a juror; or

[(2) as a witness on behalf of a party other than the United States, the District of Columbia, or a private party;]

(2) other than as provided in subsection (c) of this section, as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party;

in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For purposes of this subsection, "judicial proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

\* \* \* \* \*

SECTION 10 OF THE RETIRED FEDERAL EMPLOYEES  
HEALTH BENEFITS ACT

APPROPRIATIONS

SEC. 10. The amounts authorized by this Act to be contributed by the Government shall be paid from annual appropriations which are hereby authorized to be made for such purpose *and which may be made available until expended.*

# Calendar No. 788

94TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ No. 94-830

## COURT LEAVE FOR FEDERAL EMPLOYEES

MAY 13, 1976.—Ordered to be printed

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

### REPORT

[To accompany H.R. 11438]

The Committee on Post Office and Civil Service, to which was referred the bill (H.R. 11438) to amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

### AMENDMENT

The amendment of the committee is technical. It corrects the citation of the act of December 19, 1970, appearing in section 2 of the bill.

### PURPOSE

The primary purpose of the bill is to expand present court leave provisions by eliminating inequities between employees who are eligible for court leave when they appear as witnesses on behalf of a State or local government and those who are required to take annual leave or leave-without-pay when they appear as witnesses on behalf of a private party in a judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party. Under the provisions of this bill, court leave would be authorized for employees summoned to appear as witnesses in proceedings in which the Federal Government, the District of Columbia Government, or a State or local government is a party.

The secondary purpose of the bill is to permit the Civil Service Commission to retain the unobligated balance of funds under the appropriation "Government Payment for Annuitants, Employees Health Benefits" beyond the end of the fiscal year.

## STATEMENT

The committee believes that the present law pertaining to court leave for employees summoned as witnesses is inequitable. It discriminates against an employee, or a private party to a judicial proceeding, in cases where the employee is summoned on behalf of the private party in a proceeding involving a State or local government. H.R. 11438 corrects this inequity by providing for court leave for employees whenever they are summoned by any party to appear as witnesses in a judicial proceeding in which the United States, the District of Columbia, or a State or local government is a party. Under existing law, employees are entitled to court leave without loss of or reduction in pay, leave to which they are otherwise entitled, or other benefits, if summoned to serve as jurors or to appear as witnesses on behalf of a State or local government. They are considered on duty when requested to testify or produce official records on behalf of the United States or the District of Columbia, or to testify in their official capacity as an employee on behalf of any party. Similar rights are accorded congressional employees by Public Law 91-563, which the bill also would amend, to provide congressional employees with leave provisions corresponding to those accorded other employees.

Section 3 of the bill amends provisions relating to the Federal Employees Health Benefits Program [5 U.S.C. 8906(g)] and provisions relating to the Retired Federal Employees Health Benefits Act (Public Law 86-724). It permits the appropriations for the Government contributions for annuitants under those two programs to be made available until expended, thus removing the necessity of including such a provision in the annual appropriation acts. Its inclusion could be construed as adding legislative language to appropriations acts.

## COMMITTEE ACTION

The Committee on Post Office and Civil Service approved H.R. 11438 on May 11, 1976, by a voice vote, no objection being heard.

## SECTIONAL ANALYSIS

The first section of H.R. 11438 amends section 6322(a)(2) of title 5, United States Code, to provide that an employee, as defined in section 2105 of title 5 (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives), who is summoned to appear as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party, is entitled to leave, without loss of, or reduction in, pay, leave to which he is otherwise entitled; credit for time or service, or performance of efficiency rating. The phrase "other than as provided in subsection (b) of this section" reflects the fact that under existing law (5 U.S.C. 6322(b)), when an employee is summoned to (1) testify or produce official records on behalf of the United States or the District of Columbia, or (2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia, the employee is deemed to be performing official duty and

receives his pay accordingly. In such instances, it is unnecessary to provide for court leave.

Section 2 of the bill which amends section 6(b)(2) of the act approved December 19, 1970 (Public Law 91-563; 2 U.S.C. 130(b)(2)), relating to court leave for individuals whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives, is identical to the provisions of the first section of the bill, relating to court leave for other Federal employees.

Section 3(a) of the bill amends subsection (g) of section 8906 of title 5, United States Code, by adding at the end of that subsection the phrase "and which may be made available until expended". Section 3(b) of the bill adds identical language at the end of section 10 of the Retired Federal Employees Health Benefits Act of 1960 (74 Stat. 849).

Section 4 of the bill provides that the act shall become effective on October 1, 1976, or on the date of enactment, whichever is later.

## COST

Statistics are not available for the purpose of estimating costs, but it appears that the number of employees who are summoned as witnesses for private parties in judicial proceedings involving the United States, the District of Columbia, or a State or local government as a party is negligible. The Civil Service Commission estimates that there are, in addition, no additional costs involved in section 3 of the bill.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

COMPTROLLER GENERAL OF THE UNITED STATES,  
Washington, D.C., May 3, 1976.

B-143939.

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

DEAR MR. CHAIRMAN: We refer to your letter of February 23, 1976, requesting our views and comments on H.R. 11438, which if enacted would authorize court leave for Federal employees who are summoned to appear as witnesses in a nonofficial capacity on behalf of a private party in a judicial proceeding in which the Federal Government, the District of Columbia Government, or a State or local government is a party. In addition, this legislation would permit the Civil Service Commission to retain the unobligated balance of funds under the appropriation "Government Payment for Annuitants, Employees Health Benefits" beyond the end of the fiscal year so that such funds would be available until expended.

Under existing law a Federal employee who is summoned to appear as a witness on behalf of a State or local government is granted court leave however, in most instances, when an employee is summoned to appear as a witness on behalf of a private party in the same proceeding, he is not entitled to court leave and therefore is required to use annual leave or leave without pay.

The requirement to use leave or leave without pay could serve as a disincentive for the employee to appear on behalf of a private party

in such proceedings. Hence the current law operates to reward an employee who appears on behalf of a State or local government and penalizes the employee who appears on behalf of a private party in the same proceeding. Needless to say this policy is inconsistent with our concept of equal justice under the law.

Inasmuch as H.R. 11438 would correct this inequity and thereby enhance the administration of justice, we would not object to its enactment.

We understand that section 8 of the act amends provisions relating to the Federal Employees Health Benefits Program, 5 U.S.C. § 8906 (g), and provisions relating to the Retired Federal Employees Health Benefits Act, Public Law 86-724, so as to permit the appropriations of the Government contributions for annuitants under those programs to be made available until expended. Accordingly, we have no objection to the enactment of this provision.

Sincerely yours,

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

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,  
Washington, D.C., May 3, 1976.

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

DEAR MR. CHAIRMAN: This is in reply to the committee's request for the views of this Office on H.R. 11438, "To amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes," as passed the House of Representatives.

The principal purpose of H.R. 11438 is to grant court leave for witness service by Federal employees on behalf of private parties in judicial proceedings in which one of the parties is the United States, a State or local government, or the District of Columbia Government. In addition, section 3 of the bill contains unrelated technical amendments to the Federal Employee Health Benefits law and the Retired Employees Health Benefits Act which would authorize the Commission to carry over unobligated funds for these programs.

In its report, the Civil Service Commission states a number of reasons for supporting enactment of this bill.

We concur in the views expressed by the Civil Service Commission and, accordingly, recommend enactment of H.R. 11438.

Sincerely,

(s) James M. Frey  
JAMES M. FREY,  
Assistant Director for Legislative Reference.

CONGRESS OF THE UNITED STATES,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, D.C., May 5, 1976.

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

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 11438, a bill to grant court leave to Federal employees called as witnesses.

Based on this review, it appears no increase in budget authority or outlays would be incurred as a result of the enactment of this bill.

The impact of the proposed bill would be limited to the value of the time spent away from work appearing as a witness. This time loss is considered to be negligible and would not result in additional employment costs.

Sincerely yours,

ALICE M. RIVLIN,  
Director.

AGENCY VIEWS

U.S. CIVIL SERVICE COMMISSION,  
Washington, D.C., May 3, 1976.

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

DEAR MR. CHAIRMAN: This letter is in reply to your request for the Commission's views on H.R. 11438, a bill "To amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes."

The Commission supports enactment of the proposed legislation. The bill will expand present court leave provisions by eliminating the inequities between employees who are eligible for court leave when they appear as witnesses on behalf of a State or local government and those employees who are required to take annual leave or leave without pay when they appear as witnesses on behalf of a private party in a judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party. Although the latter group of employees are allowed to keep court fees, the fees from most courts are such that they do not compensate for the loss of leave or pay.

Statistics are not available for the purpose of estimating costs, but it appears reasonable to assume that the number of employees who are called as witnesses for private parties in judicial proceedings involving the United States, the District of Columbia, or a State or local government as a party, is negligible, and the additional costs incurred for court leave will be small. Offsetting benefits are foreseen in increased employee morale, and in the improvement of law enforcement and administration of justice by removal of some of the barriers to obtaining needed witnesses in judicial proceedings.

Section 3 of H.R. 11438 contains technical amendments to the Federal Employees Health Benefits Law and the Retired Employees Health Benefits Act which will provide statutory authority for the Commission to carry over the unobligated balance of funds allowed under the appropriation "Government Payment for Annuitants, Employees Health Benefits" for use the following year. Prior to fiscal year 1975 the Commission did this by including the words "to remain available until expended" in the appropriations bill. Under the present rules of the House, however, these words in the appropriations bill would be subject to a point of order unless the general statutes involved are amended to authorize the procedures. Section 3 will involve no additional costs and will greatly simplify the Commission's accounting.

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

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,  
Chairman.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law 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 63—LEAVE

\* \* \* \* \*

SUBCHAPTER I—OTHER PAID LEAVE

\* \* \* \* \*

§ 6322. Leave for jury or witness service; official duty status for certain witness service

(a) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia is entitled to leave, without loss of, or reduction in, pay, leave to which he otherwise is entitled, credit for time or service, or performance of efficiency rating, during a period of absence with respect to which he is summoned, in connection with a judicial proceeding, by a court or authority responsible for the conduct of that proceeding, to serve—

(1) as juror; or

[(2) as a witness on behalf of a party other than the United States, the District of Columbia, or a private party;]

(2) other than as provided in subsection (b) of this section, as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party; in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For the purpose of this subsection, "judicial proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

\* \* \* \* \*

CHAPTER 89—HEALTH INSURANCE

§ 8906. Contributions

(a) The Commission shall determine the average of the subscription charges in effect on the beginning date of each contract year with respect to self alone or self and family enrollments under this chapter, as applicable, for the highest level of benefits offered by—

(1) the service benefit plan;

(2) the indemnity benefit plan;

(3) the two employee organization plans with the largest number of enrollments, as determined by the Commission; and

(4) the two comprehensive medical plans with the largest number of enrollments, as determined by the Commission.

(b) (1) Except as provided by paragraph (2) of this subsection, the biweekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter shall be adjusted, beginning on the first day of the first applicable pay period of each year, to an amount equal to the following percentage, as applicable, of the average subscription charge determined under subsection (a) of this section: 50 percent for applicable pay periods commencing in 1974 and 60 percent for applicable pay periods commencing in 1975 and in each year thereafter.

(2) The biweekly Government contribution for an employee or annuitant enrolled in a plan under this chapter shall not exceed 75 percent of the subscription charge.

(c) There shall be withheld from the pay of each enrolled employee and the annuity of each enrolled annuitant and there shall be contributed by the Government, amounts, in the same ratio as the contributions of the employee or annuitant and the Government under subsection (b) of this section, which are necessary for the administrative costs and the reserves provided for by section 8909 (b) of this title.

(d) The amount necessary to pay the total charge for enrollment, after the Government contribution is deducted, shall be withheld from the pay of each enrolled employee and from the annuity of each enrolled annuitant. The withholding for an annuitant shall be the same as that for an employee enrolled in the same health benefits plan and level of benefits.

(e) (1) An employee enrolled in a health benefits plan under this chapter who is placed in a leave without pay status may have his cov-

erage and the coverage of members of his family continued under the plan for not to exceed 1 year under regulations prescribed by the Commission. The regulations may provide for the waiving of contributions by the employee and the Government.

(2) An employee who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by section 8901 of this title, within 60 days after entering on that leave without pay, may file with his employing agency an election to continue his health benefits enrollment and arrange to pay currently into the Employees Health Benefits Fund, through his employing agency, both employee and agency contributions from the beginning of leave without pay. The employing agency shall forward the enrollment charges so paid to the Fund. If the employee does not so elect, his enrollment will continue during non-pay status and end as provided by paragraph (1) of this subsection and implementing regulations.

(f) The Government contributions for health benefits for an employee shall be paid—

(1) in the case of employees generally, from the appropriation or fund which is used to pay the employee;

(2) in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment;

(3) in the case of an employee of the legislative branch who is paid by the Clerk of the House of Representatives, from the contingent fund of the House; and

(4) in the case of an employee in a leave without pay status, from the appropriation or fund which would be used to pay the employee if he were in a pay status.

(g) The Government contributions authorized by this section for health benefits for an annuitant shall be paid from annual appropriations which are authorized to be made for that purpose and which may be made available until expended.

(h) The Commission shall provide for conversion of biweekly rates of contribution specified by this section to rates for employees and annuitants paid on other than a biweekly basis, and for this purpose may provide for the adjustment of the converted rate to the nearest cent.

SECTION 6 OF PUBLIC LAW 91-653

AN ACT To amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia

SEC. 6. (a)

(b) The pay of an employee shall not be reduced during a period of absence with respect to which the employee is summoned (and permitted to respond to such summons by the appropriate authority of the House of the Congress disbursing his pay), in connection with a

judicial proceeding by a court or authority responsible for the conduct of that proceeding, to serve—

(1) as a juror; or

[(2) as a witness on behalf of a party other than the United States, the District of Columbia, or a private party;]

(2) other than as provided in subsection (c) of this section, as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party;

in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For purposes of this subsection, "judicial proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

\* \* \* \* \*

SECTION 10 OF THE RETIRED FEDERAL EMPLOYEES HEALTH BENEFITS ACT

APPROPRIATIONS

SEC. 10. The amounts authorized by this Act to be contributed by the Government shall be paid from annual appropriations which are hereby authorized to be made for such purpose and which may be made available until expended.

○

# Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

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

## An Act

To amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6322 (a) (2) of title 5, United States Code, relating to leave for witness service, is amended to read as follows:*

*“(2) other than as provided in subsection (b) of this section, as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party;”*

SEC. 2. Section 6 (b) (2) of the Act entitled “An Act to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia”, approved December 19, 1970 (2 U.S.C. 130b (b) (2)), is amended to read as follows:

*“(2) other than as provided in subsection (c) of this section, as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party;”*

SEC. 3. (a) Subsection (g) of section 8906 of title 5, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “and which may be made available until expended.”

(b) Section 10 of the Retired Federal Employees Health Benefits Act of 1960 (74 Stat. 849) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “and which may be made available until expended.”

SEC. 4. The amendments made by this Act shall take effect on October 1, 1976, or on the date of the enactment of this Act, whichever date is later.

*Speaker of the House of Representatives.*



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

June 4, 1976

Dear Mr. Director:

The following bills were received at the White House on June 4th:

S. 1699 ✓  
H.R. 11438 ✓

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

Sincerely,

Robert D. Linder  
Chief Executive Clerk

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