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20 April 1971

JMM:

1. For your signature, Agency views to OMB on proposed legislation by State.
2. The draft bill liberalizes Government employees allowances and travel benefits.
3. Harry Fisher undertook the substantive coordination job covering all bases including OGC. of raised a question of technical interpretation which was resolved satisfactorily by Personnel with State.

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20 APR 1971

**Mrs. Naomi R. Sweeney
Office of Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503**

Dear Mrs. Sweeney:

This is in response to your request for our views on the Department of State's draft bill "To amend certain overseas differential and allowance provisions of title 5, United States Code."

This Agency supports the changes proposed in the draft bill.

Sincerely,

**John M. Maury
Legislative Counsel**

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| 1 | Deputy Director for Support 7D-26 HQ. | 4/19/71 | |
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| 3 | Legislative Counsel Attn: [] 7D-35 HQ. | | |
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| Director of Personnel 5E-56 HQ. [] | | | 16 APR 1971 |
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UNCLASSIFIED INTERNAL USE ONLY CONFIDENTIAL SECRET

ROUTING AND RECORD SHEET

SUBJECT: (Optional)
 State Department's draft bill "To amend certain overseas differential and allowance provisions of title 5, United States Code."

FROM: Office of Legislative Counsel
 [Redacted]
EXTENSION NO. [Redacted]
DATE 29 March 1971

TO: (Officer designation, room number, and building)
DATE RECEIVED FORWARDED
OFFICER'S INITIALS
COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

| 1. | TO: | DATE | | OFFICER'S INITIALS | COMMENTS |
|-----|-----------------------|----------|-----------|--------------------|--|
| | | RECEIVED | FORWARDED | | |
| 1. | DDS | | | [Redacted] | <p>May we please have a coordinated Agency position on the attached proposal of legislation.</p> <p>Our views to OMB are due by 22 April, and we would like to have your comments by 16 April.</p> <p>We have sent duplicate packages to OGC and to the SA/DDP for their information and in anticipation that you may be consulting with them.</p> <p>2 to 3. SSA-DD/S has been over this and concurs with the proposed changes. We will appreciate your touching base with other appropriate components and drafting a coordinated Agency response in time for us to meet the <u>16 April deadline.</u></p> |
| 2. | Attn: [Redacted] | | | | |
| 3. | Director of Personnel | | | | |
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EXECUTIVE SECRETARIAT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OLC 71-0-72
March 24, 1971

LEGISLATIVE REFERRAL MEMORANDUM

To: Legislative Liaison Officer

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|-------------------|-------------------------|-----------------------------|
| Dept. of Agri. | Justice Dept. | ✓ Central Intelligence Agen |
| Dept. of Commerce | Dept. of Labor | Civil Service Commission |
| Dept. of Defense | Post Office Dept. | General Services Adm. |
| Dept. of HEW | Dept. of Transportation | NASA |
| Dept. of HUD | Treasury Department | Veterans Administration |
| Interior Dept. | Atomic Energy Comm. | |

Subject: State Department's draft bill "To amend certain overseas differential and allowance provisions of title 5, United States Code."

The Office of Management and Budget would appreciate receiving the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with Budget Circular A-19.

- (x) To permit expeditious handling, it is requested that your reply be made within 30 days.
- () Special circumstances require priority treatment and accordingly your views are requested by

Questions should be referred to Hilda Schreiber (395-4650) or to Victor Zafra (395-3736), the legislative analyst in this office.

Naomi R. Sweeney
Naomi R. Sweeney, for
Assistant Director for
Legislative Reference

Enclosures



DEPARTMENT OF STATE

Washington, D.C. 20520

The Honorable
Carl Albert
Speaker of the House of
Representatives

Dear Mr. Speaker:

There is transmitted herewith for the consideration of Congress a proposed amendment to 5 U.S.C. 5924 relating to overseas differentials and allowances. The proposed legislation would authorize the following:

1. A special allowance to compensate for the extra costs created as the result of the death or disability of an employee assigned abroad. When an employee dies abroad or is reassigned to the United States because of a serious disability incurred abroad, all allowances including quarters, cost-of-living and education terminate immediately. This is unnecessarily harsh and imposes an extra difficulty on a family already burdened.
2. An extension of the educational allowance to include kindergarten. The majority of 5 year old children in the United States attend public kindergartens. Federal employees assigned abroad should receive allowances to send their children to this grade as they do now for grades 1 through 12.
3. An increase in educational travel to permit one round trip per year at Government expense between a foreign post and the United States to obtain an undergraduate college or other postsecondary education. Only one round trip during the four years of college is now authorized. It is desired to permit families assigned abroad while their children are attending college, to be reunited once per year at Government expense. It is also desired to extend benefits to employees whose children do not attend college but who enroll in other useful and legitimate courses of study.

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4. A revision of the separate maintenance allowance to include educational continuity as an additional purpose for which this allowance may be paid. It is proposed to pay this allowance for a maximum of 90 days when an employee is transferred for the convenience of the Government to or from a post abroad during a school semester and maintains his children at a separate location in order to permit them to complete a school semester in the same school. This limited continuity is necessary in many cases in order to prevent a child from having to repeat a grade or semester. It is also proposed to amend this provision to authorize a separate maintenance allowance for a female employee whose husband is not permitted or is not able to accompany her to a foreign post of assignment in circumstances when such an allowance would be authorized for a male employee.
5. Greater equity in the payment of transfer allowances as between Foreign Service and Civil Service employees. Foreign Service and certain Civil Service employees are not now eligible for transfer allowances when reassigned for duty to the United States from abroad unless it is planned to again reassign them abroad, whereas most Civil Service employees are entitled to such allowances. Also, Foreign Service employees are not eligible for transfer allowances when reassigned from one city to another within the United States as are Civil Service employees.
6. Reimbursement for necessary expenses incurred because of a late change or cancellation in transfer orders. It is necessary for employees assigned to certain posts to purchase special clothing and equipment which they cannot use at other posts. It is proposed to authorize limited reimbursement for losses incurred when an assignment is changed after an employee makes such special purchases. It is also proposed to reimburse an employee for the expenses of moving his household from one location

A BILL

To amend certain overseas differential and allowance provisions of title 5, United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That section 5924 of title 5, United States Code, is amended to read as follows:

"5924. Cost-of-living allowances

"The following cost-of-living allowances may be granted, when applicable, to an employee (or to his surviving dependents) in connection with his assignment to a foreign area:

"(1) A post allowance to offset the difference between the cost-of-living at the post of assignment of the employee in a foreign area and the cost-of-living in the District of Columbia.

"(2) A death and disability allowance to offset the extra costs which are reasonable, necessary and not otherwise compensated for, which are incurred by an employee or his surviving dependents as a result of an injury, illness or disease incurred by the employee abroad and which results in 1) death, 2) separation for disability or 3) evacuation to the United States.

"(3) A separate maintenance allowance to assist an

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employee who 1) is compelled, because of dangerous, notably unhealthy, or excessively adverse living conditions at his post of assignment in a foreign area, 2) for the convenience of the Government, or 3) in order to maintain educational continuity for his children at the elementary or secondary school level, to meet the additional expense of maintaining, elsewhere than at post, his spouse or his dependents, or both.

"(4) An education allowance or payment of travel costs to assist an employee with the extraordinary and necessary expenses, not otherwise compensated for, incurred because of his service in a foreign area or foreign areas in providing adequate education for his dependents, as follows:

"(A) An allowance not to exceed the cost of obtaining such elementary, including kindergarten, and secondary educational services as are ordinarily provided without charge by the public schools in the United States, plus, in those cases where adequate schools are not available at the post of the employee, board and room, and periodic transportation between that post and the nearest locality where adequate schools are available, without regard to section 529 of title 31. The amount of the allowance granted shall be determined on the basis of the educational facility used.

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"(B) The travel expenses of dependents of an employee to and from a school in the United States to obtain an American secondary or undergraduate college education, not to exceed for each dependent one trip each way to obtain a secondary education and one trip each way each school year to obtain an undergraduate college education or other postsecondary training in a full-time course of study at a recognized educational institution. During his postsecondary education, a dependent traveling under this authority shall be limited to one trip each way each school year at Government expense between the United States and the employee's post of assignment while the employee is assigned in a foreign area. An allowance payment under subparagraph (A) of this paragraph (4) may not be made for a dependent during the 12 months following his arrival in the United States for secondary education under authority contained in this subparagraph (B). Notwithstanding section 5921(6) of this title, travel expenses, for the purpose of obtaining undergraduate college or other postsecondary training, may be authorized under this subparagraph (B), under such regulations as the President may prescribe, for dependents of employees who are citizens of the United States stationed in the Canal Zone.

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"5924a. Transfer allowances

"An allowance may be granted to reimburse an employee for extraordinary, necessary, and reasonable expenses, not otherwise compensated for, incurred by an employee:

"(1) incident to establishing himself at a post of assignment in--

"(A) a foreign area; or

"(B) the United States, its territories or possessions, the Commonwealth of Puerto Rico or the Canal Zone in connection with a transfer from another post of duty; or

"(2) in preparation for an official assignment which is subsequently canceled or changed for the convenience of the Government."

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5 USC 5924
(Death and Disability)

Existing Legislation

5924 Cost-of-living allowances

The following cost-of-living allowances may be granted, when applicable, to an employee [in] a foreign area:

(1) A post allowance to offset the difference between the cost-of-living at the post of assignment of the employee in a foreign area and the cost-of-living in the District of Columbia.

(2) [A transfer allowance for extraordinary, necessary, and reasonable expenses, not otherwise compensated for, incurred by an employee incident to establishing himself at post of assignment in--

(A) a foreign area; or

(B) the United States between assignments to posts in foreign areas.]

Proposed Legislation

5924 Cost-of-living allowances

The following cost-of-living allowances may be granted when applicable, to an employee (or to his surviving dependents in connection with his assignment to a foreign area:

(1) A post allowance to offset the difference between the cost-of-living at the post of assignment of the employee in a foreign area and the cost-of-living in the District of Columbia.

(2) A death and disability allowance to offset the extra costs which are reasonable, necessary and not otherwise compensated for, which are incurred by an employee or his surviving dependents as a result of an injury, illness or disease incurred by the employee abroad and which results in 1) death, 2) separation for

5 USC 5924(3)
(Separate maintenance)

Existing Legislation

(3) A separate maintenance allowance to assist an employee who is compelled, because of dangerous, notably unhealthful, or excessively adverse living conditions at his post of assignment in a foreign area, [or] for the convenience of the Government, to meet the additional expense of maintaining, elsewhere than at the post, his [wife] or his dependents, or both.

Proposed Legislation

disability or 3) evacuation to the United States.

(3) A separate maintenance allowance to assist an employee who 1) is compelled, because of dangerous, notably unhealthful or excessively adverse living conditions at his post of assignment in a foreign area, 2) for the convenience of the Government, or 3) in order to maintain educational continuity for his children at the elementary or secondary school level, to meet the additional expense of maintaining, elsewhere than at post, his spouse or his dependents, or both.

5 USC 5924(4)
(Kindergarten)

Existing Legislation

Proposed Legislation

5924(4) An education allowance or payment of travel costs to assist an employee with the extraordinary and necessary expenses, not otherwise compensated for, incurred because of his service in a foreign area or foreign areas in providing adequate education for his dependents, as follows:

5924(4) An education allowance or payment of travel costs to assist an employee with the extraordinary and necessary expenses, not otherwise compensated for, incurred because of his service in a foreign area or foreign areas in providing adequate education for his dependents, as follows:

(A) An allowance not to exceed the cost of obtaining such elementary and secondary educational services as are ordinarily provided without charge by the public schools in the United States, plus, in those cases [when] adequate schools are not available at the post of the employee, board and room, and periodic transportation between that post and the nearest locality where adequate schools are available, without regard to

(A) An allowance not to exceed the cost of obtaining such elementary including kindergarten, and secondary educational services as are ordinarily provided without charge by the public schools in the United States, plus, in those cases where adequate schools are not available at the post of the employee, board and room, and periodic transportation between that post and the nearest locality where adequate schools are available, without regard to section

5 USC 5924 (4)
(Educational travel)

Existing Legislation

section 529 of title 31. The amount of the allowance granted shall be determined on the basis of the educational facility used.

(B) The travel expenses of dependents of an employee to and from a school in the United States to obtain an American secondary or undergraduate college education, not to exceed [one trip each way for each dependent for the purpose of obtaining each type of education]. An allowance payment under subparagraph (A) of this paragraph (4) may not be made for a dependent during the 12 months following his arrival in the United States for secondary education under authority contained in this subparagraph (B). Notwithstanding section 5921 (6) of this title, travel expenses,

Proposed Legislation

529 of title 31. The amount of the allowance granted shall be determined on the basis of the educational facility used.

(B) The travel expenses of dependents of an employee to and from a school in the United States to obtain an American secondary or undergraduate college education, not to exceed for each dependent one trip each way to obtain a secondary education and one trip each way each school year to obtain an undergraduate college education or other postsecondary training in a full-time course of study at a recognized educational institution. During his postsecondary education, a dependent traveling under this authority shall be limited to one trip each way each school year at

5 USC 5924 (4)
(Educational travel)

Existing Legislation

for the purpose of obtaining undergraduate college [education], may be authorized under this subparagraph (B), under such regulations as the President may prescribe, for dependents of employees who are citizens of the United States stationed in the Canal Zone.

Proposed Legislation

Government expense between the United States and the employee's post of assignment while the employee is assigned in a foreign area.

An allowance payment under subparagraph (A) of this paragraph (4) may not be made for a dependent during the 12 months following his arrival in the United States for secondary education under authority contained in this subparagraph (B). Notwithstanding section 5921(6) of this title, travel expenses, for the purpose of obtaining undergraduate college or other postsecondary training, may be authorized under this subparagraph (B), under such regulations as the President may prescribe, for dependents of employees who are citizens of the United States stationed in the Canal Zone.

5 USC 5924
(Transfer allowances)

Existing Legislation

See existing section 5924(2).

Proposed Legislation

5924a. Transfer allowances

An allowance may be granted to reimburse an employee for extraordinary, necessary, and reasonable expenses, not otherwise compensated for, incurred by an employee:

- (1) incident to establishing himself at a post of assignment in--
 - (A) a foreign area; or
 - (B) the United States, its territories or possessions, the Commonwealth of Puerto Rico or the Canal Zone in connection with a transfer from another post of duty; or
- (2) in preparation for an official assignment which is subsequently canceled or changed for the convenience of the Government.

EXPLANATION

This bill would amend 5 U.S.C. 5924 which relates to overseas differentials and allowances to authorize:

- (a) an allowance to compensate for the extra costs created by the death or disability of an employee assigned abroad;
- (b) an extension of the educational allowance to include kindergarten;
- (c) an increase in educational travel at the college level;
- (d) limited reimbursement for maintenance of children for up to 90 days in a separate location for purposes of educational continuity when an employee is transferred to or from a foreign post during a school semester;
- (e) a separate maintenance allowance for a female employee whose husband is not permitted to accompany her to a foreign post of assignment in circumstances when such an allowance would be authorized for a male employee;
- (f) payment of transfer allowances for additional types of transfers;

Death and Disability Allowance
5 U.S.C. 5924 (2)

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Death and Disability

Proposed new paragraph (2) of section 5924 would authorize an allowance to an employee or his survivors for the extra costs incurred if the employee dies or is disabled while abroad. Since the circumstances in each case will vary depending upon whether dependents are in school abroad and other factors, it is proposed that a special allowance be granted to meet the particular circumstances of each case.

If an employee dies abroad, it is likely that his widow and children residing with him or attending school abroad would travel to the United States for the funeral. Depending on age and time of year, the dependents might wish to return to complete a school semester or possibly a school year. If they were attending school at the post, rather than a boarding school, it would be natural for the widow to return with them. It is contemplated that regulations issued to implement this new paragraph would authorize the following depending on the circumstances in the case:

- One round-trip to the United States for the widow and dependent children residing abroad;
- Continuation of quarters and post allowances for up to 60 days and educational allowances

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to the end of the school semester or school year in special circumstances;

- If the family is occupying Government quarters they could be permitted to continue in such quarters, on a space available basis, for up to 60 days;
- Temporary lodging allowances, if necessary upon final return to the United States, to the same extent as would be authorized for an employee assigned to the United States following a tour abroad.

If an employee is stricken with a serious illness, injured by accident or otherwise disabled while abroad, he may be evacuated to the United States for treatment. It may take several months before a medical determination can be made of the extent and probable duration of the disability. If the disability is severe and of probable long duration, the employee will be separated or retired. If the disability is not serious, the employee may be placed on sick leave or assigned part time work during convalescence.

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Altogether, there may be several months during which the family will not know where they will be permanently domiciled. If the family accompanies the employee to the United States, they will generally have to occupy temporary quarters for part or all of the interim period while awaiting a medical decision. Then, if the employee is separated or retired on disability and moves to another location, he may have to move into temporary quarters again before occupying permanent quarters at the new location. All of this will entail considerable expense which would not be incurred if the employee were working in the United States and permanently domiciled here with his family.

At the present time, neither an employee nor his dependents are entitled to per diem, temporary lodging or other allowances while they are in the United States on an interim basis in this type situation. If the employee's assignment abroad is terminated, education allowances for his children will be discontinued at that time. The employee may not have to refund allowances already received but he cannot be paid additional allowances even if he wishes his children to complete a school semester or school year at their current school abroad.

5 U.S.C. 5924

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This amendment would permit issuance of a regulation to authorize payment of temporary quarters and subsistence expenses while occupying temporary quarters during periods in which the employee and his family are in the United States in an indefinite status following a medical evacuation. It would also permit continuation of educational allowances for the balance of a school semester or school year in special circumstances. It is contemplated that the payment of temporary quarters and subsistence allowances would be limited to the first 90 days following first arrival in the United States in connection with a medical evacuation and, if the employee never returns to full time duty, to an additional 30 days in connection with a subsequent separation or retirement on disability and a move to another location.

If a disability is terminated by death in the United States, the same allowances could be authorized as if the death occurred abroad, to the extent necessary.

In both death and disability cases, the proposed allowance could cover lease settlement expenses if they are unavoidably incurred.

5 U.S.C. 5924(4)(A)

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Kindergarten Allowance

The proposed amendment to 5 U.S.C. 5924(4)(A) will authorize payment of education allowances to employees to assist with the costs of obtaining kindergarten education for their children. Present authority has been construed by the Comptroller General to limit payment of education allowances for children in grades 1-12, so parents in foreign areas are required to pay personally for their children to attend kindergarten.

According to census reports, 54 percent of the 5 year old noninstitutionalized children in the United States not in grade 1 or higher are in public kindergartens and 70 percent of all urban places in the United States support public kindergartens. These figures appear to indicate that kindergarten now can be considered to be an educational service ordinarily provided without charge by the public schools in the United States.

Helping the child to adjust to a school environment is one of the prime purposes of kindergarten. A kindergarten education is unusually important for children in foreign areas who are forced to adjust to a variety of schools during their educational careers. In "Pioneer Ideas in Education,"

Kindergarten allowance
5 U.S.C. 5924(4)(A)

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published by the House Committee on Education and Labor in September 1963, the following statement about kindergartens is made: "Research shows that good kindergarten experience enables the child to realize his potentials more fully than if he did not attend kindergarten."

The Congress has further recognized this importance by providing in Title I, P.L. 89-10, Elementary and Secondary Education Act of 1965, a formula for computing grants that includes the number of children aged 5 to 17. These 13 years of schooling, elementary and secondary, would include kindergarten.

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Educational Travel
5 U.S.C. 5924(4)(B)

Educational Travel

5 U.S.C. 5924(4)(B) now authorizes payment of expenses of a dependent of an employee assigned to a foreign area to travel to and from a school in the United States to obtain an American secondary or undergraduate college education. A number of children pursue studies after secondary school which do not qualify as undergraduate college courses but which are nevertheless useful and legitimate courses of study. The present statute does not provide educational travel benefits to these students. It seems unreasonable to deny this travel benefit to students who do not go to college but who attend other recognized training institutions such as nursing, technical or vocational schools. The proposed amendment would extend educational travel benefits to a dependent in a full-time postsecondary training course at a recognized educational institution.

Frequency of Travel

At present, one round trip is authorized to and from the United States for each dependent to obtain an American secondary education and one round trip to obtain an undergraduate college education. The proposed amendment would permit one round trip each school year at the college or postsecondary level so that

dependents could rejoin their families more frequently than is

It is not necessary to increase allowable travel at the secondary level because allowances are provided at that level to help cover the cost of sending children to the nearest adequate school and returning them for periodic family visitation. If parents elect instead, to send a child to the United States for schooling, it is reasonable that they pay the additional costs involved.

At the postsecondary level, however, parents have little choice but to send a child to the United States. It is desirable that the child visit his parents at least once a year, especially during a long vacation period such as during the summer. It is reasonable for the Government to pay for the travel because of the extra expense created by the foreign assignment. This amendment would permit one such trip a year at Government expense.

Travel at the postsecondary level under the authority of this section is intended to be used in combination with other travel to which a dependent may be entitled such as with the employee on home leave or on transfer orders so that the dependent has no more than one trip each way each year at Government expense between the employee's post of assignment and the United States. The amendment contains a restriction to limit travel of dependents to this total.

Educational Continuity

The proposed amendment of section 5924(3) of title 5 would authorize a separate maintenance allowance to assist an employee to meet the expense of maintaining one or more of his dependents away from his post in order to provide educational continuity for his children.

The State Department and other agencies assigning personnel overseas take educational requirements of dependents into account when making assignments. However the needs of the Service sometimes require that an employee with school-age children be transferred in the middle of a school semester.

Schools utilized by United States Government dependents throughout the world vary widely in educational content and teaching procedure. Although changes from one type of school to another may be unavoidable, it is certainly advantageous to the child to be disrupted only at normal times, year end or semester end. A transfer several months before the end of a school semester is difficult because the child is unlikely to be given credit for the semester either from the school he leaves or the school he later enters. A transfer several months after the beginning of a semester is difficult because an understanding of mid-semester course work requires a knowledge of what has gone before particularly in such subjects as language,

Educational Continuity
5 U.S.C. 5924(3) and (4)

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mathematics and science. For the above reasons, a child entering a new school with a late start may be unable to catch up and consequently may have to repeat a semester or a grade.

Another problem created by mid-semester transfers is the admission problem. Most schools around the world that Americans attend are crowded and admissions after the start of a semester are difficult to arrange. In some instances, enrollments are closed at the beginning of a semester, a waiting list is established, and late arriving students must wait for a subsequent opening. Timely enrollment is especially acute for parents who must enter their child in a boarding school because there is no adequate school at the post to which they are assigned. Unless arrangements are made in advance and tuition paid, admission in mid-semester is usually impossible in boarding schools.

Parents, therefore, make every effort to have their children enrolled in a school at the beginning of a semester and allow them to remain at least until the end of a semester. To provide such educational continuity when a transfer does not coincide with the beginning or ending of a school semester, sometimes involves substantial additional expenses for the employee. If he is being transferred from the United States or

Educational Continuity,
5 U.S.C. 5924(3) and (4)

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from a foreign post with a zero educational allowance to a post where he must enter his child in a boarding school, he receives no educational allowance until the beginning of his new assignment. This may cost him \$400 or \$500 in tuition for the period prior to his arrival at the new post. Where there is an adequate school at post and an employee is transferred to such a post after the beginning of a semester or away from such a post before the end of a semester, he will have to pay the extra living costs of maintaining his children and most probably his wife at that post while he is serving at a different post. This may cost him \$400 or \$500 for additional living expenses. These are significant amounts that a few employees must pay because the needs of the Service require that they be transferred at a certain time. It is believed these educational costs could be paid by the Government under the concept now stated in section 5924(4) which authorizes an educational allowance for an employee to meet "extraordinary and necessary expenses, not otherwise compensated for, incurred because of his service in a foreign area or foreign areas in providing adequate education for his dependents." It is believed that provision of reasonable educational continuity to a child is necessary and that the extra costs for providing this continuity caused by a transfer made solely for the convenience of the Government shortly before or

To permit this on transfers between the United States and a foreign post, it is proposed to broaden the preamble of section 5924 to authorize the payment of allowances to employees "in connection with" an assignment in a foreign area. Now educational allowances are payable only to employees actually "in" a foreign area. This amendment would permit payment of educational allowances to an employee prior to his departure from the United States who must, because of a foreign assignment, enroll his child in a school where tuition is required. It is proposed to limit such payments of educational allowances by regulation to periods up to 90 days prior to the scheduled arrival of an employee at any post where an educational allowance is provided and up to 90 days after an employee is transferred away from any such post where this is necessary in order to provide educational continuity.

Minimum reimbursement for necessary additional living expenses would be authorized by the proposed amendment of section 5924(3) which would add educational continuity as an additional reason for which a separate maintenance allowance could be authorized. Separate maintenance payments for this purpose would be limited by regulation to a maximum of 90 days in cases where a transfer occurs just before the end of a semester or

EDUCATION GOV. UNIT
5 U.S.C. 5924(3) and (4)

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which is not scheduled to occur until just after the beginning of a semester at a new post. A separate maintenance allowance would not be paid unless the separation was expected to last for more than 30 days.

Separate maintenance allowances--
women

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5 U.S.C. 5924(3)

Separate Maintenance Allowance

5 U.S.C. 5924(3) now authorizes a separate maintenance allowance to "assist an employee who is compelled, because of dangerous, notably unhealthful, or excessively adverse living conditions at his post of assignment in a foreign area, or for the convenience of the Government, to meet the additional expense of maintaining, elsewhere than at the post, his wife or his dependents, or both." As described previously it is proposed to amend this provision to authorize a separate maintenance allowance when a family separation is required to permit educational continuity. It is also proposed to amend this provision to change the word "wife" to "spouse" to make clear that female employees are entitled to the same benefits as male employees.

Transfer allowances
5 U.S.C. 5924a

Transfer Allowances

Present authority for transfer allowances is stated in paragraph (2) of section 5924. It is proposed to restate this authority in new section 5924a.

Civil Service and Foreign Service personnel are entitled, under existing law, to the same allowances while assigned abroad. Differences exist in the payment of transfer allowances on transfers to the United States from abroad and within the United States. It is the objective of this legislation to provide parity of treatment in this respect between Foreign Service and Civil Service personnel to the extent possible when circumstances are similar. This legislation would also authorize reimbursement to both Civil Service and Foreign Service employees for certain necessary expenses incurred in connection with transfers not now reimbursed to either group.

Specifically this amendment would authorize:

- (a) transfer allowances for Foreign Service employees who are transferred from one city to another within the United States or to the United States from abroad when it is not planned subsequently to reassign them abroad;
- (b) transfer allowances for Civil Service employees transferred back to the United States from abroad under Foreign Service Act authority when it is not planned to subsequently reas-

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- (c) temporary lodging allowances for both Foreign Service and Civil Service employees for a brief period prior to departure from the United States on transfers abroad; and
- (d) limited reimbursement to Foreign Service and Civil Service employees for extraordinary expenses incurred because of a late change or cancellation in transfer orders.

Transfers to and within United States--Parity

As a general rule, 5 U.S.C. 5924, codified from the Overseas Differentials and Allowances Act, authorizes transfer allowances to Foreign Service and Civil Service employees when they are assigned abroad and when they are transferred to the United States between assignments abroad. It does not authorize transfer allowances 1) for employees transferred back to the United States when it is not planned subsequently to reassign them abroad or 2) for employees transferred within the United States. 5 U.S.C. 5724a, codified from a 1966 amendment to the Administrative Expenses Act, authorizes transfer allowances to Civil Service employees transferred within the United States and, in certain cases, when they are transferred abroad. The latter section specifically prohibits payments to employees transferred under the authority of the Foreign Service Act. Thus when a Foreign Service employee is given a type of transfer not provided for under 5 U.S.C. 5924, he receives no transfer allowance.

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On the other hand, a Civil Service employee receives the same allowances as a Foreign Service employee under 5 U.S.C. 5724 while assigned abroad. When he is transferred back to the United States under an authority other than the Foreign Service Act, or when he is transferred within the United States, he is eligible for transfer allowances under 5 U.S.C. 5724a.

A number of agencies (the Federal Aviation Agency and the Veterans Administration to name two) are authorized to assign personnel abroad and to utilize the authority of the Foreign Service Act for this purpose. This permits their personnel, when so assigned, to travel under the Foreign Service travel regulations and to receive benefits under the Foreign Service medical program while abroad. This also denies these Civil Service employees eligibility for transfer allowances under 5 U.S.C. 5724a. Accordingly, when they are transferred back to the United States they are denied transfer allowances unless it is planned that they will be later reassigned abroad.

Both Foreign Service and Civil Service employees are transferred by order of the head of their agency for the convenience of the Government. They should be reimbursed for the reasonable and necessary expenses they incur in connection with each transfer whether abroad or within the United States. This amendment

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would authorize such reimbursement in the types of transfers where it is not now provided. The specific allowances that would be authorized are described in detail on the next page under the heading: "Regulations".

Predeparture allowance

The proposed amendment would also permit the payment of a temporary lodging allowance to both Civil Service and Foreign Service employees immediately prior to their departure from the United States for an assignment to a foreign area. Neither Foreign Service nor Civil Service employees are now eligible for predeparture allowances on this type of transfer although such allowances are authorized under either 5 U.S.C. 5724 or 5924 for all other types of transfers.

Employees incur expenses for temporary lodging after their effects are delivered to a transfer company just prior to their departure for a new assignment. Reservations for both personal travel and shipment of effects usually must be made well in advance. It is sometimes impossible and usually unwise to plan to depart for a new post on the same day that the movers are scheduled to come. A one or two day grace period is frequently allowed. In an unusual case where an employee is being assigned to a remote place, he may need to have his effects picked up on a given date to meet an infrequent shipping schedule and he may

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5 U.S.C. 5924a(1)

be unable to depart himself at exactly that time.

If this amendment is enacted, it is proposed to authorize by regulation very limited predeparture temporary quarters allowances for both Foreign Service and Civil Service employees when they are assigned from the United States to a foreign post.

Regulations

If this amendment is enacted, it is contemplated that the Secretary would authorize by regulation the types of allowances listed below to reimburse employees for the necessary and reasonable expenses not otherwise reimbursed, that they incur in connection with assignments and transfers in the circumstances described below where such allowances are not presently authorized. (References to the United States are intended to include its territories or possessions, the Commonwealth of Puerto Rico, and the Canal Zone unless otherwise specified.)

- (a) A temporary lodging allowance to reimburse an employee for the cost of occupying temporary quarters (1) immediately prior to departure from the old post on a transfer within the United States or from the United States to a foreign post and (2) while unable to occupy permanent quarters after arrival at a new post of duty on a transfer within the United States or to the United States from a

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foreign post when reassignment abroad is not planned.

Reimbursement for temporary lodging prior to departure from a post in the United States would be limited to two days except in unusual circumstances, such as the necessity to meet an infrequent shipping schedule on a transfer to a remote post, when up to a total of 15 days would be allowed. The maximum number of days of temporary lodging for which reimbursement would be authorized after arrival would be as follows:

- 1) On transfers within the United States, the number would be the same as the maximum number authorized for Civil Service employees under 5 U.S.C. 5724a. The present maximum under that authority on transfers within the continental United States is 30 days less the number used prior to departure. The maximum is 60 days less the number used prior to departure on transfers to or from Alaska, Hawaii, Puerto Rico, the Canal Zone or a United States territory or possession.
- 2) On transfers to the United States from a foreign post when reassignment abroad is not planned, the maximum number would be the same as the number authorized on transfers to the United States when reassignment abroad is planned. The maximum is now limited by regulation

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5 U.S.C. 5921a(1)

to 30 days but this number is reported to be inadequate in a majority of cases. If a current survey proves this to be the case and necessary funds are authorized, this maximum may be raised.

The accompanying chart shows the maximum number of days of temporary lodging presently authorized under chapters 57 and 59 of title 5, U.S. Code and proposed by this amendment under chapter 59.

- (b) A supplemental post allowance to assist an employee with a family to meet the extra cost of restaurant meals while occupying nonhousekeeping facilities after first arrival at a new post of duty when transferred to the United States from abroad or within the United States.
- (c) A lease settlement allowance to reimburse an employee for the expense of settling a lease in cases when he is transferred unexpectedly prior to the expiration of his normal tour of duty or on notice too short to permit fulfilling the advance notice requirement of his lease when he has not been able to negotiate a "military" or "diplomatic" lease permitting cancellation without cost upon transfer.
- (d) An allowance for a house hunting trip for an employee and/or his spouse on transfers _____ within the continental United States when it is determined that

Maximum Number of Days Temporary Lodging Authorized on Transfers--

| | Between any of the following: Alaska, Hawaii, Puerto Rico, Canal Zone, U.S. territories or possessions & continental U.S. | Within con- tinental U.S. | From U.S. to foreign posts | Between foreign posts | From foreign post to U.S. |
|--|--|------------------------------|----------------------------------|-----------------------------|------------------------------|
| Temporary Lodging Allowances-- | | | | | |
| Presently author- ized, chapter 57, title 5, U.S. Code (Admin Expenses Act) | | | | | |
| Predeparture | 60 | 30 | 0 | 0 | 30 |
| Postarrival | 60 ^a | 30 ^a | 0 | 0 | 30 ^a |
| Presently author- ized, chapter 59, title 5 U.S. Code (Overseas Differ- entials & Allowances Act) | | | | | |
| Predeparture | 0 | 0 | 0 | 30 ^b | 30 ^b |
| Postarrival | 0 | 0 | 90 ^b | 90 ^b | 30 ^c |
| Proposed under chapter 59, title 5, U.S. Code | | | | | |
| Predeparture | 2/15 ^d | 2 | 2/15 ^d | 30 | 30 |
| Postarrival | 60 ^a | 30 ^a | 90 | 90 | 30 |

Notes:

- Days authorized on post arrival reduced by number used on predeparture.
- Chapter 59 authorizes one month and three months, respectively, rather than 30 and 90 days.
- Authorized only when return abroad is planned.
- 2 days normal maximum with up to 15 days permitted in compelling circumstances when special authorized.

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Transfer allowances
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such a trip is necessary to permit the employee to obtain suitable housing or to reduce temporary lodging expenses.

(e) A miscellaneous transfer allowance to reimburse an employee for expenses such as:

- 1) disconnecting and connecting appliances, equipment and utilities involved in relocation, and cost of converting appliances for operation on available utilities;
- 2) cutting and fitting rugs, draperies and curtains moved from one residence to another;
- 3) utility fees or deposits that are not offset by eventual refunds;
- 4) automobile registration, driver's license and use taxes;
- 5) personal cable and telephone costs;
- 6) new clothing required by different climate--on interclimatic-zone transfers only.

It is proposed to authorize payment of this miscellaneous allowance on all transfers to a new post of duty for which a transfer allowance is authorized to be paid under 5 U.S.C. 5924a, as proposed, including transfers from post

5 U.S.C. 5724a(1)

to post abroad, transfers from abroad to the United States, transfers within the United States and transfers and initial assignments from the United States to posts abroad. This will provide parity between Foreign Service and Civil Service personnel transferred under similar circumstances.

The climatic zone transfer allowance, which is the only type of miscellaneous transfer allowance now payable to Foreign Service personnel because of appropriation limitations, would be included in the miscellaneous transfer allowance as it is proposed to be administered. A significant percentage of transfers of Foreign Service personnel involve climatic zone changes. The allowance presently authorized by regulation partially reimburses employees for the additional expenses involved in clothing purchases required by such transfers. The present limitations on this allowance are: \$75 for an employee without family; \$125 for an employee and one dependent; \$175 for an employee and more than one dependent.

The proposed miscellaneous allowance would be administered under regulations that would assure parity with the present miscellaneous allowance authorized by 5 U.S.C. 5724a.

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It would not be paid to personnel eligible for a similar allowance under that authority. The present limitations on the payment of the miscellaneous allowance authorized by 5 U.S.C. 5724a are as follows: For an employee with an immediate family, up to two weeks' pay with the top step of GS-13 being the maximum amount allowable, except that payment is limited to \$200 unless the employee produces receipts or other documentation of expenditures to justify a higher payment. Corresponding limitations for single employees are exactly one-half of the above amounts -- one week's pay and \$100, respectively. The same limitations, or such others as may be applied in the future, would be applied to the proposed miscellaneous allowance, except that it is not planned to require receipts or other documentation for wardrobe expenses.

The following examples applicable to employees with salaries in excess of the GS-13 rate are illustrative:

1) Married employee -- interzone transfer

a. Basic miscellaneous transfer

allowance (nonreceipted if claim

for nonclothing expenses does

not exceed \$200)

\$200

Transfer allowances
5 U.S.C. 574a(1)

b. Clothing allowance for inter-
climatic-zone transfer --
employee with two or more
dependents (nonreceipted) \$170

c. Maximum additional miscellaneous
expenses payable (receipts must
cover the basic \$200 and all
other nonclothing expenses) \$510

Total--maximum miscellaneous expenses
payable (biweekly salary for top step,
GS-13) \$880

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5 U.S.C. 594a(1)

- 2) Married employee -- intrazone transfer
- a. Basic miscellaneous transfer allowance (nonreceipted) \$200
 - b. No clothing allowance for intraclimatic-zone transfer 0
 - c. Maximum additional miscellaneous expenses payable (for claim above \$200, receipts must cover entire amount of claim. Clothing expenses not covered.) \$688
- Total--maximum miscellaneous expenses payable \$888
- 3) Single employee -- interzone transfer
- a. Basic miscellaneous transfer allowance (nonreceipted if claim for nonclothing expenses does not exceed \$100) \$100
 - b. Clothing allowance for inter-climatic-zone transfer (nonreceipted) \$ 75

5 U.S.C. 5901a(1)

c. Maximum additional miscellaneous expenses payable (receipts must cover basic \$100 and all other nonclothing expenses)

\$ 260

Total--maximum miscellaneous expenses payable (one week's salary for top step, GS-13)

\$444

Transfer allowances
Change or cancellation provision
5 U.S.C. 5924a(2)

Proposed new paragraph 5924a(2) would authorize reimbursement for certain extraordinary, necessary, and reasonable expenses, not otherwise compensated for, incurred by a Civil Service or a Foreign Service employee in preparation for an assignment to a particular post when his assignment is subsequently changed from one city or country to another or when a transfer is canceled for the convenience of the Government. Upon receipt of notification of a new assignment, an employee may purchase special clothing, appliances, household effects or a specially equipped vehicle that will be required at his new post. He may contract to sell his house, terminate a lease or dispose of personal property in preparation for the transfer. When orders are changed or canceled after any of the above actions are taken, an employee sometimes encounters serious financial losses.

The following examples illustrate the problem: If a transfer is canceled after an employee has sold his house or given notice on his lease, he may have to find and move to another home within the same metropolitan area. If an assignment is shifted from an overseas post where the employee is required to have his own furniture and appliances to a

Transfer allowances
Change or cancellation provision
5 U.S.C. 5924a(2)

post with Government furnished quarters, he may have purchased unnecessary household items. If an assignment is shifted to a country in a different climatic zone, the employee may have purchased special clothing or household equipment which is completely unsuitable for the new post.

The proposed amendment would authorize reimbursement to employees for losses of this type incurred through no fault of their own and solely because of a change or cancellation of assignment for the convenience of the Government. It is proposed to limit, by regulation, payments under this authority to expenses relating to local household moves and to reimbursement for certain losses on personal property. Payment would be made for the cost of local household moves and related dislocation expenses made necessary solely because of the cancellation of transfer orders for the convenience of the Government to the same extent as if a transfer had occurred. Losses on the sale of real property or incurred because of the necessity to live in more expensive quarters would not be reimbursed. Reimbursement for losses on personal property would be limited by regulation to the lesser of one week's salary at step 3 of the rate for GS-12 (currently about \$300)

Transfer allowances
Change or cancellation provision
5 U.S.C. 5924a(2)

or to ten percent of the cost of items purchased after receipt of formal notification of an assignment to one post and prior to cancellation or change of that order where the items are determined by competent administrative authority to be customarily required by persons assigned to the first post and to be unsuitable or of only marginal utility at the second post. In determining the amount of loss for this purpose, a loss due to forfeiture of deposit would be counted up to ten percent of the agreed purchase price of the item. If an item is retained, a loss equal to ten percent of its cost would be assumed because of depreciation and because of the unnecessary investment.

Estimated Cost to Department of State
of Proposed Amendments

| | | | |
|----|--|---|----------------|
| 1. | Death and Disability Allowance | | |
| | a. | 5 employee deaths with families living abroad at \$1,500 each | \$7,500 |
| | b. | 50 employee evacuations to U.S. because of disability at \$800 each | <u>40,000</u> |
| | | | \$47,500 |
| 2. | Kindergarten allowance | | |
| | a. | 400 students at \$450 each | 180,000 |
| 3. | Postsecondary educational travel | | |
| | a. | Increased number of trips | 75,000 |
| | b. | Full-time vocational/technical schools | <u>7,500</u> |
| | | | 82,500 |
| 4. | Transfer allowances (see detail attached) | | <u>530,000</u> |
| | | Total | \$840,000 |

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 Estimated Cost of Proposed New or Increased
 Transfer Allowances

| | <u>Total No.</u> <u>Transfers</u> | <u>No.</u> <u>Paid</u> | <u>Current</u> | | <u>Proposed</u> | | <u>Increased</u> <u>Cost</u> |
|---|--------------------------------------|---------------------------|----------------|--------------|-----------------------------|--------------|---------------------------------|
| | | | <u>Av.</u> | <u>Total</u> | <u>Av.</u> | <u>Total</u> | |
| 1. Miscellaneous allowance on transfers: | | | | | | | |
| a. To posts abroad | | | | | | | |
| Inter-Zone | 553 | 553 | \$130 | \$71,890 | \$340 | \$188,020 | \$116,130 |
| Intra-Zone | 675 | 675 | 0 | 0 | 210 | 141,750 | 141,750 |
| b. To U.S. between assignments abroad | | | | | | | |
| Inter-Zone | 200 | 200 | 130 | 26,000 | 340 | 68,000 | 42,000 |
| Intra-Zone | 244 | 244 | 0 | 0 | 210 | 51,240 | 51,240 |
| c. To U.S.--reassignment abroad not planned --and within U.S. | | | | | | | |
| Inter-Zone | 41 | 41 | 0 | 0 | 340 | 13,940 | 13,940 |
| Intra-Zone | 91 | 91 | 0 | 0 | 210 | 19,110 | 19,110 |
| 2. Temporary Lodging allowance on transfers: | | | | | | | |
| a. Postarrival in U.S.--reassignment abroad not planned | 92 | 80 | 0 | 0 | \$625 (\$25X25days) | 50,000 | 50,000 |
| b. Postarrival and predeparture on transfers within the U.S. | 40 | 30 | 0 | 0 | \$175 (\$25X7 days) | 5,250 | 5,250 |
| c. Predeparture on transfers from U.S. | 336 | 300 | 0 | 0 | \$ 37.50 (\$25X1.5 days) | 11,250 | 11,250 |
| Balance forwarded | | | | \$97,890 | | \$548,560 | \$450,670 |

| | <u>Total No. Transfers</u> | <u>No. Paid</u> | <u>Current Av.</u> | <u>Total</u> | <u>Proposed Av.</u> | <u>Total</u> | <u>Increased Cost</u> |
|--|--------------------------------|---------------------|------------------------|--------------|-------------------------|--------------|---------------------------|
| Balance brought forward | | | | 337,990 | | 55-8 00 | 330,000 |
| 1. Subsistence allowance on transfers | | | | | | | |
| a. To U.S. | 536 | 135 | 0 | 0 | \$300 (\$12X25 days) | \$40,500 | \$40,500 |
| b. Within U.S. | 40 | 10 | 0 | 0 | 60 (\$12X5 days) | 600 | 600 |
| 2. Educational continuity | 1,764 | 20 | 0 | 0 | 900 | 18,000 | 18,000 |
| 3. House Hunting allowance on transfers within U.S. | 40 | 20 | 0 | 0 | 300 | 6,000 | 6,000 |
| 4. Lease settlement allowance on emergency transfers-- U.S. and abroad | 50 | 25 | 0 | 0 | 250 | 6,250 | 6,250 |
| 7. Reimbursement for change or cancellation of orders | | | | | | | |
| a. Household move within city | 1,764 | 3 | 0 | 0 | 950 | 2,850 | 2,850 |
| b. Unusuable purchases | 1,764 | 12 | 0 | 0 | 200 | 2,400 | 2,400 |
| Totals | | | | \$97,890 | | \$625,160 | \$527,270 |
| | | | | | | | Rounded to \$530,000 |

N.B. Based on FY 1972 budget estimates, State S&E direct