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- **House Backs Pay Parity**

On Thursday, July 24, 2003, the House Appropriations Committee approved a measure to give military and civilian federal employees the same 4.1 percent raise in 2004. The measure, which was included in the Transportation-Treasury appropriations bill, received strong bipartisan support. However, agencies will be expected to absorb the \$2.1 billion cost of the raise in their operating budgets. Interestingly, the committee only included \$2.5 million for the Bush Administration's proposed "Human Capital Performance Fund; the administration had asked for \$500 million to be directed to the fund.

Commenting on the pay parity measure, Rep. Steny Hoyer (D-MD) stated, "Federal civilian employees work every day to make this country a better and safer place for all Americans. Whether it is protecting our borders, fighting deadly diseases, researching how to improve our children's education or working side by side with our military, federal employees' work often goes unnoticed despite the fact that it touches every American life" (Lee, The Washington Post). Hoyer, Rep. Frank Wolf (R-VA) and Rep. James Moran (D-VA) sponsored the pay parity amendment. Although committee member Rep. Ernest Istook Jr. (R-OK) declined to support the amendment on the basis that civilian employees are not subjected to as many risks as military members are, Chairman Bill Young (R-FL) has indicated that he supports the measure, increasing the likelihood that other Republican Members of Congress will also support the measure when it makes it to the House floor.

Late last week, OMB Director Josh B. Bolten, OPM Director Kay Coles James, and Labor Secretary Elaine Chao sent a letter to congressional appropriations members in which they advocated a 2 percent raise for civilian federal employees. The letter stated, "Adding 2 percent to the across-the-board pay raise would not only fail to add value to the government's recruitment and retention efforts, it would also drain resources from the agency budgets." Earlier this year, the Administration had expressed support for a 2 percent raise for civilian employees, as it had done last year. Eventually, President Bush signed a 4.1 percent pay raise for both civilian and military employees earlier this year, and it is unlikely that he will be able to successfully persuade Members of Congress to support different pay raises for the military and for civilian employees for FY04.

- **Overtime Provisions**

Many questions and concerns have been raised by NCSSMA members as to why and how the Department of Labor's proposed changes to overtime regulations (for the private sector) might affect federal employees. There are no provisions in the DOL's proposal that specifically pertain

to federal employees. However, it is important to pay close attention to the proposal because the current administration has placed such a heavy emphasis on using private sector practices as a model for government practices. Secondly, OPM has traditionally followed the lead of the Department of Labor when devising and implementing personnel guidelines for the federal workforce. Legislation has been introduced to help prevent the loss of overtime for workers that would be exempt under the DOL's new proposal.

On March 31, 2003, the DOL published its proposal in the *Federal Register*. Perhaps anticipating that the proposal might be met with criticism and/or resistance, the DOL appears to have remained relatively quiet about it, until it finally came to the attention of the media. The DOL has maintained that the proposal would actually extend overtime benefits to approximately 1.3 million people earning less than \$22,100 per year. However, as the *Wall Street Journal* noted on July 2, 2003, approximately 644,000 white-collar workers will lose their right to overtime pay. The proposal would make it more difficult for executive, administrative, and technical professionals to obtain overtime. On page 15571 of the *Federal Register*, the DOL's proposal states:

The proposed regulations also include in Sec. 541.601 a special, streamlined rule for employees paid \$65,000 or more annually. Under this proposed rule for highly compensated employees, employees paid \$65,000 or more annually and performing non-manual work would be exempt if they have an identifiable executive, administrative, or professional function as described in the standard duties tests. These individuals would not have to meet all the elements of the standard duties test to qualify for the exemption as highly compensated employee.

Basically, this rule allows employers to refuse to pay overtime to workers earning \$65,000 a year even if their job tasks only include *one* executive, administrative, or technical function. If an employee supervises at least two employees but does not engage in hiring or firing, then the employer can exempt that employee from receiving overtime pay. According to current regulations, an employee must engage in at least few "identifiable" executive, administrative, or technical functions.

The concern about this element of the proposal is that the federal government, via OPM, could apply this standard to federal workers at some point in the near future. According to Carl Goldman, the executive director of the American Federation of State County and Municipal Employees' Council 26, OPM usually "models its regulations on Labor's" (*Federal Times*, 4/21/03). In his commentary in the *Federal Times*, Goldman did not cite specific instances in which OPM has followed the lead of the DOL. However, the Bush Administration's efforts regarding competitive sourcing, pay-for-performance, and the "Human Capital Performance Fund" strongly indicate the Administration's desire to revamp the federal personnel system through systemic changes—the changes could eventually include overtime pay revisions.

House members Peter King (R-NY) and George Miller (D-CA) have introduced the "Overtime Compensation Protection Act of 2003" (H.R. 2665). The bill's aim is to prohibit Secretary Chao from issuing any regulations that would exempt more workers from receiving overtime benefits. As of July 24, 2003, the bill had 24 cosponsors and had been referred to the House's

Subcommittee on Workforce Protections. At this time, Congress is deeply divided about how to handle the overtime issue. Democrats support maintaining current overtime regulations, while Republicans are advocating a change to the current overtime regulations.

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