RAMSPECK ACT: REPEAL, REFORM, OR RETENTION

HEARING

BEFORE THE

CIVIL SERVICE SUBCOMMITTEE

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

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RAMSPECK ACT: REPEAL, REFORM, OR RETENTION

WEDNESDAY, MAY 24, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CIVIL SERVICE,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 2157, Rayburn House Office Building, Hon. John L. Mica (chairman of the subcommittee) presiding.

Present: Representatives Mica, Bass, Moran, Mascara.

Ex Officio Present: Representative Clinger.

Staff present: George Nesterczuk, staff director; Ned Lynch, Susan Mosychuk, professional staff; and Caroline Fiel, clerk.

Mr. MICA. Good morning. I would like to call this meeting of the Civil Service Subcommittee to order. This morning we are having a hearing on the Ramspeck Act, and we have entitled it "Repeal, Reform, or Retention." I want to welcome our guests and our witnesses.

I would like to open with some comments relating to the Ramspeck Act, which was established in 1940, and enables members of congressional staffs who have served for more than 3 years to gain noncompetitive appointments to career civil service if they lose their position through no particular fault of their own but the course of election or other circumstances.

For more than 10 years, the General Accounting Office has reviewed appointments made using Ramspeck authority. The GAO has usually found the people appointed to be qualified for their positions. GAO's recent studies, however, have helped to shed new light on the use of this Ramspeck authority.

GAO analyzed 106 appointments using the Ramspeck authority between January 1, 1994, and March 31, 1995, and they learned that 80 percent of the people hired using the Ramspeck authority are classified in positions that are difficult to distinguish from political appointments.

Ramspeck authority has been used to place into career positions strategic planners, public affairs specialists, and congressional affairs specialists. Their work within the executive branch often continues the work that they began while they were on various congressional staffs.

No one questions the legalities of these appointments under the current law. There is, however, some real question about whether these appointments might frustrate the results of particular elections. There are also real questions about whether the presence of

a large cadre of political appointees, holding noncompetitive appointments to the career service, might impede the ability of a future administration to manage the executive branch.

The House's Chief Administrative Officer has confirmed that 684 former members of the House staff have obtained certificates of Ramspeck eligibility since the last election, November 1994.

Former congressional staff members who are working in government agencies are, undoubtedly, qualified for the positions that they may hold. If they wanted to compete for such positions in civil service, they would have a strong possibility of winning such competitions—I have no doubt about that personally—but Ramspeck procedures mean that these people will not have to compete.

Ramspeck procedures enable agency heads to cancel civil service competitions in progress when a Ramspeck-eligible candidate is identified. Ramspeck procedures also enable agency heads to create new positions in the career civil service. In short, Ramspeck procedures create situations where policies repudiated at the last election may, in fact, gain long-term status in the career civil service.

Ironically, the Ramspeck authority which provides a vehicle for staff of defeated Members of Congress to find positions in the career service is located in the section of title 5 of the U.S. Code, immediately after last year's Hatch Act Reform, which prohibits sitting Members of Congress from influencing the executive branch's selection to the career service.

Today, we are fortunate that we will hear from one of our distinguished colleagues, Representative Porter Goss, who is sponsoring legislation to repeal the Ramspeck Act, and we look forward to his testimony. We will also hear from Mark Levin, director of legal policy for the Landmark Legal Foundation, who has analyzed the political impact of Ramspeck appointments.

We will hear additional reports also from the General Accounting Office describing the use of Ramspeck authority, as well as from OPM Director Jim King, who will provide the administration's position and viewpoint on reform of the Ramspeck Act. In another panel we will hear from the Department of Health and Human Services, the Interior, and Treasury Departments to provide their views on the Ramspeck authority.

We are especially interested in hearing their assessment of the impact of Ramspeck appointments on the current administration within their particular agencies, as well as their views about the impact of such appointments on the agencies' future management. With those comments, I am pleased to open the hearing. I would like to now defer for any opening comments to the distinguished ranking member from Virginia, Mr. Moran.

[The prepared statement of Hon. John L. Mica follows:]

PREPARED STATEMENT OF HON. JOHN L. MICA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Good morning. The Ramspeck Act of 1940 enables members of congressional staffs who have served for more than three years to gain noncompetitive appointments to the career civil service if they lose their positions through no fault of their own. For more than ten years, the General Accounting Office has reviewed appointments made using the Ramspeck authority, and the GAO has usually found the people appointed to be qualified for their positions. GAO's recent studies, however, have helped to shed new light on the use of the Ramspeck authority. GAO analyzed 124 appointments using the Ramspeck authority between January 1, 1994, and April 30,

1995, and learned that 80 percent of the people hired using the Ramspeck authority are classified in positions that are difficult to distinguish from political appointments.

Ramspeck authority has been used to place into career positions strategic planners, public affairs specialists, and congressional affairs specialists. Their work within the executive branch often continues work that they began while they were on congressional staffs. No one questions the legality of these appointments under current law. There is very real question about whether these appointments might frustrate the results of elections. There are also real questions about whether the presence of a large cadre of political appointees, holding noncompetitive appointments to the career service, might impede the ability of a future administration to manage the executive branch.

The House's Chief Administrative Officer has confirmed that 684 former members of House staffs have obtained certificates of Ramspeck eligibility since the November 1994, elections. Former congressional staff members who are working in government agencies are undoubtedly qualified for the positions that they hold. If they wanted to compete for such positions in the civil service, they would have a strong possibility of winning such competitions.

But Ramspeck procedures mean that these people will not have to compete. Ramspeck procedures even enable agency heads to cancel civil service competitions in progress when a Ramspeck-eligible candidate is identified. In some cases. it appears, Ramspeck procedures enable agency heads to create new positions in the career civil service. In short, Ramspeck procedures foster situations where policies repudiated at the last election can gain long-term status in the career civil service. Ironically, the Ramspeck authority, which provides a vehicle for staff of defeated Members of Congress to find positions in the career service, is located in the section of Title 5 of the U.S. Code immediately after last year's Hatch Act reform, which prohibits sitting Members of Congress from influencing the executive branch's selections to the career service.

Today, we will hear from Rep. Porter Goss, who is sponsoring legislation to repeal the Ramspeck Act. We will also hear from Mr. Mark Levin, Director of Legal Policy for the Landmark Legal Foundation, who has analyzed the political impact of Ramspeck appointments.

We will also hear additional reports from the General Accounting Office describing the use of the Ramspeck authority, as well as from OPM Director James B. King, who will provide the administration's position on reform of the Ramspeck Act.

We have also invited the Departments of Health and Human Services, the Interior, and the Treasury to provide their views on the Ramspeck authority. We are especially interested in hearing their assessment of the impact of Ramspeck appointments on the current administration of their agencies, as well as their views about the impact of such appointments on their agency's future management.

Mr. MORAN. Well, thank you, Mr. Distinguished Chairman. We find ourselves with another issue before us that begs the question, what is the problem; and if there is a problem, then how can it best be corrected? Questions about the Ramspeck Act have arisen every time you have a major change in the composition of the Congress or the White House.

We would expect that there would be an inquiry about the Ramspeck Act, and we ought to look at whether there have been abuses. Obviously, thousands of congressional employees found themselves without jobs on November 9. The vast majority of those employees went into the private sector; a few hundred, as you say, went into the Federal Government.

I appreciate the fact that you recognize there is nothing illegal or unethical or even improper with the use of the Ramspeck Act by those few hundred employees who took advantage of it.

I think it makes some sense that people who are qualified for civil service positions would have access to those positions. I do take exception, however, to the quote that "Staff of defeated members to continue a discredited policy agenda in permanent positions within the executive branch."

Now, that may have been your press secretary or something. Who was that? You don't need to tell us who that was.

Mr. MICA. It was me.

Mr. MORAN. Well, that was you.

Mr. MICA. I fess up.

Mr. MORAN. OK. It came right from there.

Mr. MICA. I should put "may."

Mr. MORAN. May. Hey, oh, that makes a world of difference.

Mr. MICA. Thank you.

Mr. MORAN. "May" continue a discredited policy, I see. Of course, you know Bob Michel had a lot of people who resigned. I don't think that Speaker Foley's staff become any less qualified just because he was defeated. I think the fact is that if you can find people who are politicized and exploiting their position, we ought to look at that.

I think that you are going to find that of the few hundred people out of 2 million Federal employees who are in the Federal Government, the executive branch, because of the Ramspeck Act, conduct themselves in a very professional manner.

Some do go into congressional liaison positions, because they have a particular knowledge of the legislative process. That makes a lot of sense. You want people working in the area for which they are best qualified. Others go into legislative and analytical positions that take advantage of their experience in the legislative branch. I hope that that continues.

The reality is that when President Reagan took over, and even to a somewhat lesser extent when President Bush took over, there were a number of people who came in from the offices of Republican Members of Congress and Senate to work for the administration.

We would not suggest that they were politicizing their function. I have every reason to believe they carried out their function very well. I do not think it is a major problem anyway, when you are really only talking, as far as we can see, about 126 employees over a period of 16 months within a Federal workforce of 2 million.

You know, if we want to look at any kind of erosion of the quality of the Federal workforce, we may want to take a look at those people who burrowed in after President Bush was defeated in November 1992, left their political appointments and found permanent appointments within the administration—that is what the term "burrowed in" means, of course—and thus acquired the kind of security that normally is not available for political appointees.

I am sure you would not want that to happen if President Clinton finished his second term or by some quirk of the imagination was in defeated 1996, you certainly would not want his political appointees burrowing in.

We might look at the great number of President Bush's appointees who did burrow in and figure out how we could prevent that from occurring again. That might be a good way to widen the scope of this inquiry, but it is good to have such an inquiry.

I hope that we will find some reason for doing it, and I appreciate the opportunity to share my thoughts with you, Mr. Chairman.

[The prepared statement of Hon. James P. Moran follows:]

PREPARED STATEMENT OF HON. JAMES P. MORAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. Chairman: I appreciate your having this hearing today.

As in every other issue that has been addressed by this Subcommittee, I think it is important to begin this hearing by asking two fundamental questions: What is the problem and how can it best be corrected?

Questions about the Ramspeck Act arise every two years through allegations that the civil service is being politicized by a number of former Congressional staffers moving to the Executive Branch. This year is no different and, indeed, the scope of the inquiry is broadened due to the unprecedented turnover in Congress. On November 9th of last year, thousands of Congressional employees, Democrats and Republicans, found themselves without jobs. The vast majority of those employees went to work for the private sector, while hundreds sought to continue their public service by working for the Administration.

In your inquiry, Mr. Chairman, you have taken the high road and acknowledged that there is nothing illegal, unethical, or improper with the use of the Ramspeck Act. Indeed, you recognize that the Ramspeck Act enables Congressional staffers, who do not have civil service status, to compete for civil service positions for which they are qualified. I am concerned, however, that some individuals argue that the Ramspeck Act enables, and I quote, "staff of defeated members to continue a discredited policy agenda in permanent positions within the Executive Branch." This is absurd. A member's defeat or resignation does not impede the ability of his or her staff to continue their public service. Did Speaker Foley's staff somehow become less talented or less competent than ours or any other members simply because he was not re-elected? Are Bob Michel's former staffers somehow discredited because he resigned?

After the election, there were 2,500 legislative employees who were eligible to take advantage of the Ramspeck Act. Of these, 120 were hired. This number may be higher than it has been in the past, but this does not represent an abuse by the Clinton Administration. It only reflects the unprecedented nature of the 1994 elections.

I am concerned that some have tried to make an issue of the number of employees who went into Congressional relations or public affairs positions. This makes perfect sense. Legislative employees, particularly those in personal offices, are experienced in Congressional affairs and public relations. You would expect any dislocated employees to find work in these functions. A large number of personnel also moved into program management and analysis positions. Again, this makes perfect sense. The more senior Committee staff who spent years overseeing the programs or actually helped create the programs are well qualified to manage different federal programs. This is only an issue at today's hearing because we do not have any analysis of how Ramspeck appointments were placed in prior administration. I am sure that if a comparison was made, it would show a very similar dispersion.

I am also concerned that some charge that the recent Ramspeck appointments will politicize the federal workforce and thwart the will of any subsequent administration. When an individual serves in the Legislative Branch, he or she works for constituents of their Representative, Senator, or Committee. They obviously operate in a partisan environment. When an individual serves in the Executive Branch, they work for every American and follow the order of the President and his Cabinet officials. We trust that those who Ramspecked in under the Bush and Reagan Administration do not actively thwart the policies of the Clinton Administration. We must also expect that those who Ramspeck in under the Clinton Administration will not work to undermine that policies of any subsequent President.

Today's oversight hearing is proper. There may be a few isolated abuses of the Ramspeck Act under the Clinton Administration. There were certainly abuses under the Reagan and Bush Administrations and there were probably some questionable uses of the Ramspeck Act under the Roosevelt and Truman Administrations. But we must acknowledge that the use of the Ramspeck Authority to hire 126 employees in 16 months is minuscule in a federal workforce of 2 million.

If the Subcommittee is serious about examining the politicization of the federal workforce we must also examine the extent to which political appointees "burrow in" to the career civil service. Any complaints about the Ramspeck Act pale in comparison to the reports of employees converting from excepted service to career service between President Bush's defeat in November of 1992 and President Clinton's inauguration in January, 1993.

I appreciate your holding this hearing today, and I look forward to the testimony of our witnesses.

Mr. MICA. Well, I thank the distinguished ranking member and share some of his opinions on this matter. I have not formed an opinion one way or the other. I have tried to present both options. I am interested in also hearing from our colleagues, and I think you raise some good points. There are a lot of good congressional staffers, and executive branch staffers, who can serve the country well. Just because they served in the Congress does not mean they are bad, including members.

I will defer to the majority side, our vice-chairman, Mr. Bass.

Mr. BASS. Thank you very much, Mr. Chairman. I appreciate the opportunity to be here today, and would like to thank you for bringing this important matter to the attention of this committee.

I have to be honest with you and say that prior to about 6 this morning, I had never even heard of the Ramspeck Act. I read it as I walked to work. It is a fascinating item. I never had any idea that this existed. I regret so, because I was an administrative assistant myself in the late seventies. Although my boss was not defeated or left office during my employment, I will never know, I might have been in a position to take advantage of it.

There could not have been an issue, however, that is more bipartisan than this issue, because it does not matter whether you are a Republican or a Democrat. The issue, in essence is, are these individuals who are members of a Congressmen's staff better qualified, for one reason or another, to take positions in the Federal workforce without having to go through the same processes and procedures that everybody else does?

Now, in my political reference, I can only think of two instances, or periods, in which this would have constituted a significant problem. Generically, that would be when there is a significant change in the legislative change of power, if you will, or shift of power in the legislative branch in which the other party controls the executive branch.

Now, that occurred obviously last year and also my frame of reference at least in 1974, when there was a big change in Congress and the president was a Republican at the time. This would probably statistically occur in both of those events and maybe elsewhere.

The question is, what was Mr. Ramspeck thinking about when he introduced this bill? I have not had an opportunity to review the original testimony. Congressman Ramspeck probably sat right in this very chamber. Although this chamber may be the same as it was when he was around in 1940, I suspect that a lot of things have changed since then.

When my father was in Congress, for example, he had one AA and three secretaries, and that was it—and one person in the district. I suspect that there was a significant problem associated with clerical help being able to continue to work in Washington, and there was an effort made here to provide some sort of a reasonable form of job security. Clearly, the criteria for this advantage, if you will, has changed.

I welcome Congressman Goss's introduction to this bill, and I welcome this hearing to really examine this issue on a nonpartisan basis and perhaps come up with a resolution that will be fair not

only for the Federal workforce, but also for the people who work up here.

Thank you, Mr. Chairman.

Mr. MICA. Well, I thank you for your perspective, and we have someone who has some great credentials in the local government arena, the gentleman from Pennsylvania. I will now hear your comments. Mr. Mascara?

Mr. MASCARA. Good morning. Thank you, Mr. Chairman, for providing me the opportunity to participate in these hearings.

I happen to be a beneficiary of a former employee of Tom Foley, Bonnie Lowrey. She is evidence that there are good employees on Capitol Hill. I was able to take advantage of an employee whose boss lost at the polls. I also regret coming here time and time again, Mr. Chairman, and saying something negative, but my gut reaction is this hearing is going to end up making "Much Ado About Nothing."

For whatever reason my colleagues on the other side of the aisle have decided that this act, the Ramspeck Act—and I had not heard about it until yesterday, Mr. Bass. In fact I said could I talk to Mr. Ramspeck, and they said "You're a little late." It was named after a Georgia Democrat who sponsored it in 1940, and is today's version of I guess somehow "The Evil Empire."

The trouble is the facts that will be presented this morning by Director King and Mr. Bowling do not back up those assertions. Over the past decade, only a little over 560 Ramspeck appointments have been made out of 200,000 noncompetitive appointments. In the wake of last fall's election, more than 2,500 congressional employees lost their jobs, yet only 124 ended up receiving Ramspeck appointments into the executive branch.

These are hardly sufficient numbers to be classified as scandalous, as my Republican colleagues would like us to believe. Perhaps more significant is the fact that both Director King and Mr. Bowling will testify that over the years very few of the Ramspeck appointments investigated have proven to be inappropriate, and revoked.

GAO has carefully reviewed more than 100 of the most recent appointments and found no violation of law. Virtually all the congressional employees involved were determined to be very qualified in their job. It is clear to me that because these appointments involved congressional personnel, agencies have carefully heeded OPM's warning that political considerations are not allowed.

The appointee must fill a real job, not one that is created. What seems to bother my Republican brethren is that many of these recent appointments fell into job categories which include such positions as legislative analyst, congressional affairs officer, program management analyst, and public affairs specialist.

The assumption is these are political policy positions that are better suited to be classified as Schedule C political appointments. I think that is a matter of opinion, rather than fact. There is a lot of day-to-day, nitty-gritty work that is involved in these positions. These people are not assistant secretaries. I think the tendency to paint them as charting the political and policy course of their agency is a bit far-fetched.

Representative Goss says in his prepared statement that the Ramspeck Act grants Hill workers preferential treatment and that it is wrong to give any applicant preferential treatment. I wonder if he realizes that similar noncompetitive status is routinely granted to former Federal workers returning to civil service; disabled veterans; the disabled; former Peace Corps volunteers; and, last, GAO employees looking for happier hunting ground.

During fiscal 1994 approximately 20,000 people hired by the Federal Government fell into those categories. Again, only an additional 100 or so workers received Ramspeck appointments—hardly something to write home about.

I know my Republican colleagues are bound and determined to repeal the Ramspeck Act. I, frankly, think the best route would be to urge GAO and the OPM to continue to monitor these appointments and ensure they remain as squeaky clean as they appear to be today. Thank you very much, Mr. Chairman.

[The prepared statement of Hon. Frank Mascara follows:]

PREPARED STATEMENT OF HON. FRANK MASCARA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Good morning Mr. Chairman.

I regret to come here and always end up saying something negative, but my gut reaction is this hearing is going to end up making "Much Ado About Nothing."

For whatever reason, my colleagues on the Republican side of the aisle have decided that this act, the Ramseck Act, named after the Georgia Democrat who sponsored it in 1940, is today's version of the "Evil Empire."

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Over the past decade, only a little over 560 Ramspeck appointments have been made out of 200,000 noncompetitive appointments. In the wake of last fall's election, more than 2,500 congressional employees lost their jobs. Yet only 124 ended up receiving Ramspeck appointments into the executive branch.

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I wonder if he realizes that similar noncompetitive status is routinely granted to former Federal workers returning to civil service, disabled veterans, the disabled, former Peace Corps volunteers, and lastly, GAO employees looking for happier hunting grounds!

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I know my Republican colleagues are bound and determined to repeal the Ramspeck Act. I, frankly, think the best route here would be to urge GAO and OPM to continue to monitor these appointments and ensure they remain as "squeaky clean" as they appear to be today.

Thank you Mr. Chairman.

Mr. MICA. Thank you, Mr. Mascara. That is one of the reasons for this hearing, to find out if, in fact, the human tendency to be looking for a "happier hunting ground" is a problem with the Ramspeck Act.

We are privileged this morning to have also the chairman of the full Government Reform and Oversight Committee, Chairman Clinger, our distinguished colleague from Pennsylvania. Mr. Clinger, Mr. Chairman?

Mr. CLINGER. Thank you, Mr. Chairman. This is a subject that really needs to be looked at. I am looking forward to hearing the testimony of our witnesses, and particularly want to welcome our colleague, our good colleague, from Florida, Porter Goss. I am here to be educated, and to learn. I commend you again for holding the hearing.

Mr. MICA. Thank you, Mr. Chairman. We also thank our colleague, the distinguished, I believe, legislative chair of the Rules Committee and someone who has been active in looking at reforms in this area. We will call on you now, Mr. Goss, my colleague from Florida, for your comments and your suggestions to our panel. Thank you.

STATEMENT OF HON. PORTER GOSS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. GOSS. Thank you very much, Mr. Chairman and members of the distinguished subcommittee. I have written testimony I would like to submit for the record.

Mr. MICA. Without objection, we will enter that.

Mr. GOSS. Thank you, Mr. Chairman. I will try to summarize the major points and perhaps add a little commentary on some of the opening remarks by members, which I think were very thoughtful by members.

First of all, I would like to say that you have characterized this as a repeal, reform, or retain choice. If it is multiple choice, I opt for repeal. That is the essence of my bill, H.R. 913. The bill, just by way of description, is one of the easier ones I have seen this year. It is a five-liner, and it basically says, "Repeal it." There is not a whole lot to explain.

I want to congratulate you for bringing this issue forward. I first found out about Ramspeck not this morning or last night, but actually before President Clinton became President Clinton. My conscience is clear that I am proceeding on this in a nonpartisan way.

Actually, the issue was brought to my attention by constituents, so it is constituent-driven. It was brought to my attention in the area of pensions and perks for people who work on the Hill and is this really necessary? That is how I first became acquainted with this subject.

I think that the essence of the question before us—Is it wrong to give any applicant preferential treatment?—is really what got my conscience going on this. I could not find a reason to discriminate in preference to Hill employees.

I do not believe in discrimination in hiring. Mr. Mascara, from Pennsylvania, has suggested there may be some special cases in other areas where there is preferential treatment in hiring. I am not addressing those. I basically start with the assumption that if there is going to be preferential treatment, that means there is some type of discrimination and there needs to be a reason for that.

The burden of proof would have to be on those who wish to discriminate, and I see no reason to discriminate on behalf of Hill employees, that is, give them preferential treatment under the Ramspeck Act, which is exactly what happens.

As the chairman has pointed out, this was passed at a very different time in our country—back at the beginning of the Second World War—when there were different employment patterns. Obviously, many of our eligible people to work around here were off doing country service in other parts of the world. I guess there was a different hiring problem than there is now.

I think that even the original need for the Ramspeck Act has long since passed. We have different circumstances today and certainly plenty of competition for positions and a very good pool of expertise to pick from, I think most Members would agree, when you are doing hiring on the Hill.

I think the last position I remember filling, the major position, the administrative aide position in my office, I think we had 150 applicants. They were all pretty good. Hiring on the Hill is not, I think, a major problem that most Members face.

The idea of being able to keep good staff, it seems to me, which was another justification for this bill originally. It seems to be no longer valid, either. There, again, is a big pool, and there is plenty of opportunity here. I guess I would simply say that the Ramspeck Act today no longer serves a purpose for which it was originally passed, and in fact does have a negative and counterproductive aspect in that it appears to the public to be an unnecessary perk for Hill people.

The biggest problem with the Ramspeck Act, other than those statements, is that it also has a boulevard for abuse in it, because the act does not require 3 years of continuous service—therein lies the problem. When there is a change of administration coming or a change of wind blowing and people are smart enough, they can run back up and get protection again and then go right back down and get the same job at an even higher pay grade.

This, unfortunately, has happened in the past, as we know. Obviously, it is an abuse of the act, but it is one more reason, I think, why repeal is a better solution. Since there is no real reason for the act, rather than fixing this aspect, I would simply say you can get rid of this problem by repealing, just as well as reforming.

There is another problem, and I think it is the American sense of fair play. Most Americans do not believe that there should be special treatment afforded in anything we do. When there is a violation of that sense of fair play, that somebody is getting a better shot at a job than somebody else, it irritates that sense of fair play.

When it happens on the Hill, it certainly causes even more indignation, as we know, about "Oh, there those guys on the Hill go again—doing special favors for themselves." Then there is the other problem of basically looking at it from the civil service system point of view.

There is no question, and I have been on that side of the issue as well, it does undermine the question of the work ethic there. If it is who you know rather than what you know, what are you doing to our system? I would suggest that, yes, there is a very small number involved in this.

The idea of being proud of your job as a civil servant, I think, is extremely important. I think it is our job to look out for the civil servants, as well as the Hill employees, and it seems to me to tilt the system in favor of the Hill employees without justification. It does not do that job very well.

The chairman has referred to the GAO report, so I will skip over that part. It is very clear that if you take a look at that, the GAO report, that there is an indication that new positions have been created for Ramspeck applicants, and then they are also placed in departments where there is a hiring freeze in position, which means civil servants are going without.

Under the Congressional Accountability Act, we have attempted to bring Congress under our labor laws. I think that clearly, certainly in spirit if not in the letter of the law, would say that Ramspeck is outdated and has no place under that Accountability Act. I think, frankly, it should have been included in the Congressional Accountability Act, and we have argued for that. Since it did not succeed, then we are here today.

I would point out that this is not a unilateral action by one Member of Congress or anything like it. The other body is, I believe, a little bit ahead of us on this. Senator McCain, I know, has been doing a lot of work on it. I did not collaborate with him, nor did he with me, although we have been in communication. It sprang legitimately from different wellsprings on either side.

I think that covers most of the comments and most of the points of my testimony. As I said, my legislation is very self-evident and does not require a lot of explanation. Mr. Moran has said, and I think an accurate observation, that, "Gee, there are only 126 cases." Maybe if there are only 126 cases there is really not much need. Maybe if you look at it that way.

So nobody is going to go without if we get rid of the Ramspeck Act. It is not going to hurt anybody. I think it is very important that we come up with legislation that is nonpartisan, that is good government, that is pro-civil service, that is based on merit selection, that is prospective. I think repealing does all of those things in a very logical and very defendable way. Plus, it gets rid of a little more government. I think that is good.

Then, I think there is one more benefit for us. I serve on the Ethics Committee, and we spend a lot of time talking about things that cause the U.S. Congress to have credibility problems or lack of faith and trust problems with the people we work for out there across the country.

It seems to me that this is clearly one of those things that is regarded as an unnecessary perk. It is not doing much good for any-

body, and it is an irritant. It seems to me the easiest thing to do is to remove it.

Thank you very much, Mr. Chairman.

[The prepared statement of Hon. Porter Goss follows:]

PREPARED STATEMENT OF HON. PORTER GOSS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. Chairman: Earlier this year I introduced H.R. 913 to repeal the Ramspeck Act for the simple reason that it is wrong to give any applicant preferential treatment when applying for a federal job.

In 1940, this institution passed the Ramspeck Act, which allows Congressional and judicial staff to burrow into the civil service—given priority consideration over other applicants, and full seniority when hired—upon the retirement, election defeat, or death of their employer or the reorganization of the employing office.

The legislative history of the Ramspeck Act indicates that members were finding it difficult to keep good staff. Apparently, after the clerks and secretaries were trained they soon discovered there was little job security in working for a Member of Congress and they would leave the hill for more secure positions. The justification for the passage of the Ramspeck Act was to provide an opportunity for staff to transfer into the Executive branch and an incentive to remain on the hill for a required amount of time in order to collect this so-called perk. It seems to me, and many others, that the Ramspeck Act has long since served its original purpose. Today the Ramspeck Act is a 55-year old solution to a problem that no longer exists—namely the hiring and retention of Congressional staff.

The Ramspeck Act eligibility "kicks-in" after a staffer completes three years of service—but continuous service is not required—which provides another advantage to Congressional staff. I think we have all heard stories of what I consider abuse of the Ramspeck system—a Congressional staffer leaves the hill for a political appointment and later, with a change in the Administration, returns to the hill for a few days or weeks to reestablish his or her Ramspeck eligibility. Often, the staffer is "Ramspecked" back to the same agency in the same position or even at a higher pay grade. This may be perfectly legal, but it certainly gives the impression of special treatment that is not afforded others.

I am not an expert on the civil service system and how it works—but, I believe the American public expects that those hired to work for our government are selected based on competition and merit. The Ramspeck Act undermines the work ethic cherished by the American people and certainly those that work in the federal government. I have not heard from any civil servants who think the Ramspeck Act is a good thing—they work hard to promote themselves within the system only to have a "hill staffer" obtain a position they may deserve but did not receive because the "Ramspecker" just happened to have three years' service on the Hill. This type of hiring practice affects the morale of our civil servants.

I find it very difficult to understand why the Ramspeck hiring continues when the we are trying to downsize our government. In reviewing the GAO Report, it appears that new positions have been created for Ramspeck applicants, who often are placed in departments under a hiring freeze.

Earlier this year. Congress passed the Congressional Accountability Act to bring Congress under the same labor laws that this institution imposed on the private sector. The Ramspeck Act may not be a perk afforded Members of Congress—but it is certainly special treatment that is granted to the staff. The Ramspeck Act is outdated and its repeal should have been included in the Congressional Accountability Act.

In today's competitive job market, it is wrong to give any applicant preferential treatment for a federal job. This archaic practice smacks of "who do you know" rather than "what can you do." In my opinion, the Ramspeck Act is a discriminatory hiring practice that must end. I favor an immediate repeal of this law.

Mr. MICA. We thank you for your testimony and insight on your legislation. I have a couple of questions to lead off. First of all, there are several differences between your legislation and what Senator McCain has offered. Incidentally, do you have co-sponsors for your legislation and how many?

Mr. GOSS. Seven. We have, apparently, seven or so. Mr. Chairman, we have not made an effort to push this. We had tried to

package it with the Accountability Act, did not succeed in that. It was not a major effort. We have not started to push it.

Mr. MICA. Senator McCain's bill, I think, phases this out over 2 years. You call for an immediate repeal, and you call for a repeal rather than a reform. Do you think that the current Ramspeck Act is beyond reform, and do you think there is no middle ground that could be reached here?

Mr. GOSS. I think that the points I made in my testimony that, in the first place, there is really not much justification for the act. It has got a very, very small audience involved in it today. In the second place, it does invite abuse, and there is an area that could be fixed there, the continuous service problem I have spoken about. Then, the third place, I am concerned that it is regarded as a perk. As I said, this is constituent-driven. I see absolutely no benefit.

This is a perk we take a hit on that basically provides very little benefit to anybody, and I think we could do well without it. Yes, I do call for a straight-out repeal.

Mr. MICA. One of the things is, Mr. Goss, you know, congressional staff are people, too, and they are also civil servants. If you have an individual who has served in the Congress and done a good job and served, say, 5 or 10 years, and as a result of election is displaced, civil servants have the right to also look for positions and secure positions and have a certain status within their employment as civil servants. Do you not think that should also be afforded to those who have served the Congress well?

Mr. GOSS. I believe that the comment was made in the opening remarks that these folks can compete very well on their own without any preferential treatment. I think the question there lies to the preferential treatment. I see no reason in discriminating in the hiring workplace to give folks a special edge who can compete very well on their own. I think it should be done on the merit system.

Mr. MICA. Well, we do give some preference to civil servants with existing positions for other positions in the Federal workforce. We also give special preference to veterans and to other groups. You do not think that congressional staff should be afforded those same rights or privileges?

Mr. GOSS. Each of those special situations has come about with a different justification and a different basis. I have not gone into the justification and the bases of those particular situations. I would be very happy to do that, but that is not what I have done in this bill. The Ramspeck question, again, it is a constituent-driven thing, and primarily it came out of the perks and privileges debate I was having in my own community on this with others, as it turned out.

The answer to the question—Do I think we should have some kind of special track for former employees on the Hill for employment in government?—my answer would be no. I believe they compete very well on their own.

Mr. MICA. The last point is the GAO has analyzed the 106 appointments in, I guess, the first 3 months or so here and has found that it is difficult to distinguish those positions. We also have another 684 former members of House staff who obtained certificates of Ramspeck eligibility. Do you think those folks are just holding

back for a tide, until sort of the heat subsides from the election and the initial inquiries into this position? Is that one of your concerns?

Mr. GOSS. Oh, Mr. Chairman, I have not gotten into it this far. I do not sit on your committee. I think your committee is the right committee to investigate those types of questions, and in fact to broaden the inquiry, if you wish, to go into the other areas of preferential hiring.

I just happen to feel in this case, which was brought to our attention, this particular act—which is clearly well beyond its stated purpose now—it is just plain out of date. It has a very, very small target audience and, again, has a downside.

I do not think that we ought to bother to save it. I do not think it does anything for us. I think it does something to harm us. If I thought anybody was going to be discriminated or badly treated or left standing out, I would not be sitting here. I think we are going to do fine without it.

Mr. MICA. Well, I thank you.

I will defer now to the ranking member for questions. Mr. Moran?

Mr. MORAN. Thank you, Mr. Chairman.

Mr. Goss, the General Accounting Office recommends retention of the Ramspeck Act, as I understand. They are going to testify later on, but they suggest there may be areas in which we might want to seek some reform. One area would be people who deliberately get intentionally short-lived jobs which would seem to be for the obvious purpose of exploiting the Ramspeck Act.

Another such reform might be those folks who use the Ramspeck Act once to get into the executive branch, and then use it again within this same year of eligibility to move to yet another career appointment. That would be tightening up on the Ramspeck Act and reducing the possibility for exploitation of it.

Mr. GOSS. Yes.

Mr. MORAN. How do you feel about those reforms?

Mr. GOSS. Well, that gets to the point I made about the continuous service requirement, which is a major loophole now and, as I said, is a boulevard to abuse. I have no abuse statistics. I know there has been some. I can't cite a lot of chapter and verse, but I can provide the committee and the subcommittee with whatever we have, and I would be happy to do that.

I think you can tighten it up. I do believe you can reform this act and make it work a lot better and close the loopholes. Of course, I will be the first to say that I have found that most staffers on the Hill are pretty inventive people.

We have got a wonderful pool of resource and talent up here, and I have not ever seen a piece of legislation that somebody had not figured out a way to get around if they wanted to. Even so, even putting that aside, yes, I would testify that it is possible to improve the act by some reform and tightening up, as you say, in the continuous service area, stopping that kind of jumping going on.

Then, you come to still the bottom question: Is there any need for this act? Does it still accomplish its original purpose that was in the mind of the legislator at that time? The answer is, times have changed dramatically, and there is no longer that problem.

The act is a solution for a problem that does not exist. It does create this appearance of giving an unfair advantage to Hill employees, which I think is a black eye for the U.S. Congress. It is one more of those things we do up here. No matter how you explain it, it does not explain.

You have a gentleman looking for a job in your district—maybe not in your district, which is a little special, I admit. But in my district, where we do not have quite so many Government agencies working, a fellow comes up and says, "Well, you know, nobody is doing that for me. Why should they do that for your staff?" It is a tough question to answer.

Mr. MORAN. I think that I would be particularly sensitive to it in my district with the number of Federal employees, some of whom may feel that they lost out on a promotion to someone who implemented the Ramspeck Act provision and was able to, essentially, get a lateral transfer, rather than start at the bottom in the executive branch.

Mr. GOSS. Sure.

Mr. MORAN. It is preferential treatment. I do not hear any of that. I think it is because within a workforce of 2 million people, 160 really does not make much of a ripple, and they tend to be positions within legislative affairs or congressional liaison, things like that for which the folks are uniquely well-qualified.

Mr. GOSS. In which case they would get the job and would not need the privilege.

Mr. MORAN. Well, they would probably have to get a political appointment to get into those jobs. Of course, some of them may be political appointments. We would have to look at the individual situations.

Mr. GOSS. Well, that is my point, Mr. Moran. If they compete for the job well and they are capable for the job and the job is there and they get hired for the job, fine. I believe many will. If, on the other hand, they are given the job because they cannot get a political appointment, and preference is to somebody coming through the normal ladder, it seems to me that person is seriously discriminated against.

Mr. MORAN. Yes.

Mr. GOSS. That is my concern with it.

Mr. MORAN. I understand. I guess my point is that it is not that big an issue; it is not grossly abused. We have a list of the people who took advantage of it and what jobs they went into, and it did not seem to be particularly out of line.

By the same token, because we are not talking about that many people, I do not think it is going to matter that much one way or the other, whether we repeal it or not. You know, I am not taking an adversarial position here. I am interested to listen to your arguments, and we will listen to the other folks who are supervisors within the executive branch who seem to think that it works to their advantage.

I appreciate your interest in the issue, Mr. Goss.

Mr. GOSS. Thank you, Mr. Moran. I would agree that this is not a giant issue. I would suspect that the quality of life and the work habits in Washington will be more affected by moving the ramparts

around on Pennsylvania Avenue than this legislation. I would accept that.

Mr. MORAN. I am inclined to agree with you, Mr. Goss.

Mr. MICA. It does not look like either are very effective. I will defer to our chairman if he has any questions. Mr. Clinger?

Mr. CLINGER. Thank you, Mr. Chairman, and I thank Mr. Goss for his thoughtful presentation and elucidation of his position on this issue. The only thing I would say as I read the background on this is that, apparently it was established at a time basically to deal with secretarial positions, but not policymaking-type positions, and also in recognition that, in service in the Congress, job security is not very high. You can find yourself out of work through no fault of your own and totally unexpectedly, and suddenly you are on the street.

Is that a valid sort of a consideration? I mean, you say it is a perk. Isn't there some merit in saying there is this peculiarity of the insecurity of service in the Congress that might warrant some kind of protection?

Mr. GOSS. Indeed there is. You know, you almost have to turn this around to the original purpose, which was to make sure that there was a pool of credible help that would stay with Congress and that all of the help up on the Hill was getting hired away back when this act—and that was one of the main reasons, the tenets, of this act.

Now looking at it for the protection of the employees' perspective, that is a very fair question. My answer is that the employee should not be put at a disadvantage or be given a special advantage. I think if you come to work on the Hill, you come with your eyes wide open, and I think that that is one of the factors.

Many people choose to work in high-risk jobs with the potential of high rewards; others prefer low-risk jobs with low rewards. I think it depends very much on the individual's decision. I think it is wrong for Government to make a path that says, "We are going to give you special treatment because you have worked on the Hill." I just am not ready to buy into that.

Mr. CLINGER. It seems to me also that at the time this act was adopted, perhaps Congress was somewhat unique in the high-risk nature of the tenure that you might have here. In other pursuits, there was a lot more job security. I think, say, 20 or 30 years ago that people could be fairly confident that they could stay in the same job for an entire career. At least they had a lot more security.

Mr. GOSS. Yes. I do not want to get into the term limits debate on this legislation; then we will have a giant piece of legislation. I do think that the times have changed very much. I think your observations are exactly correct. I do think times have changed an awful lot, and there is a lot of understanding.

Certainly when we do hiring in our office, folks understand that I have a 2-year term, and it is up to the people we work for whether we get hired again or not. That is part of the deal. It is also understood that there are other things. I am put on notice by them that they may be finding a better job and leaving me at some point as well. I think that is a very healthy atmosphere to work in.

Mr. CLINGER. Well, I thank you very much.

Mr. GOSS. Thank you very much, Mr. Chairman.

Mr. MICA. I thank the chairman. This hearing has gained the interest of the ranking member of the full committee also, so I will yield a moment for a unanimous consent request to Mr. Moran.

Mr. MORAN. Yes. This might be a good point to insert Mrs. Collins' statement.

Mr. MICA. Without objection, so ordered.

[The prepared statement of Hon. Cardiss Collins follows:]

PREPARED STATEMENT OF HON. CARDISS COLLINS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman, the Ramspeck Act has now been in place for about 55 years. It generally has served a useful purpose by providing opportunities for legislative and judicial branch personnel to be appointed to positions in the executive branch where their particular skills and expertise can make a valuable contribution toward the fulfillment of agency missions. Clearly, both Republican and Democratic Administrations have benefitted from the use of this special appointment authority.

For example, during the year following the 1986 congressional elections, when control of the Senate passed to the Democratic party, there were 110 Ramspeck appointments. These, no doubt, include many Republican staffers moving into the executive branch during the Bush Administration. During 1993, the year following the election of President Clinton, there were 102 Ramspeck appointments.

The General Accounting Office's (GAO) recent report on agency use of Ramspeck authority has revealed several instances where appointments, while within the letter of the law do not appear consistent with the spirit of the law.

GAO has documented cases during this period where political appointees in the outgoing Bush Administration returned to the Hill to renew their Ramspeck eligibility for a short period of time and then were appointed to career positions in the executive branch.

Individuals reinstating their Ramspeck eligibility by returning to the Hill in what they know will be short-term jobs concerns me. The use of the authority to obtain multiple appointments during the year of eligibility also creates problems. Other abuses arise when the authority is used to hire a person during an agency hiring freeze.

Ramspeck appointments are just one of many special appointment authorities available to agencies which give preferential treatment to individuals seeking to fill career competitive positions. The numbers of Ramspeck appointments during calendar year 1994 are small in relation to the overall number of career appointments made—about one-half of one percent. The number of questionable Ramspeck appointments appears smaller still. But while the abuses may be few in number, they cannot be ignored if we are to preserve the integrity of our merit based civil service system.

Mr. Chairman, in light of the information developed by GAO, I believe that it is appropriate and timely for this subcommittee to conduct a review of the Ramspeck authority. I look forward to the testimony of today's witnesses, and will carefully consider any recommendations they may have for Ramspeck reform.

Thank you Mr. Chairman.

Mr. MICA. We will yield now to Mr. Mascara for questions.

Mr. MASCARA. Thank you very much, Mr. Chairman.

Representative Goss, I appreciate your efforts to make a contribution to increase the credibility of this Congress by looking at all facets of legislation that maybe could improve our lot. I do not say this facetiously. I just have not had an outpouring in my congressional district of people walking up to me and saying, "I have a problem with Ramspeck."

I have not seen the kind of passion that I saw on the Clean Water Act, that I have seen on term limits and the balanced budget amendment. I am just wondering, you know, whether or not we should agree to take a look at your suggestions regarding Ramspeck and perhaps we could improve upon it. I just cannot get excited about this.

After having read some testimony presented by Mr. King and others, there does not seem to be a lot of support for this change. Perhaps you could share something with me, why I should get excited about it.

Mr. GOSS. Mr. Mascara, thank you. As I said, this is not a giant issue and "Sixty Minutes" has not yet approached me on it. I am not sure whether Sam Donaldson is in the audience or not, but we will see. This is not that kind of an issue. I will tell you that it was constituent-driven, and it did not come with the identification of "Ramspeck."

Nobody ran out of, you know, downtown Fort Myers and said, "Boy, are we upset about the Ramspeck Act." We have not had that experience, either. In fact, I think it would be fair to say if I surveyed my district and said all of those who are for the Ramspeck Act, I would probably get a 50/50 vote on it. And then if we asked who knew what it was, it would probably be unanimous.

The issue of where it did come up is in a very passionate discussion I have had at town meetings for the past several years—not just now, this has been going on for some period of time—about Congress taking better care of itself than the people it works for. It comes up in that vein. It comes up in pensions; it comes up in special deals, revolving doors. It comes about in that conversation. It is a very, very small part of that.

This is not going to change things noticeably. It is just another step. If we do not need this legislation, if it is not accomplishing its original purpose, it is not accomplishing much of anything, and it has got a potential for some abuse out there. There might be one of these scandals on it.

We might see it on "60 Minutes" some night. Somebody will total up all of these things and cast it with their own slant. You know, you will get one of those TV tabloid stories, and then everybody will be running around defending themselves, saying, "We didn't do that, we didn't do that."

Why do we need it? Why do we have it? If the answer is there is a justification for it, it escapes me what it is. Certainly, the wisdom of your committee will be able to make a decision on that. If there is a reason to save it, then perhaps it should be reformed to stop some of the abuse that we are pretty sure has gone on and, on which I have some documentation of. It is just that simple.

Mr. MASCARA. Thank you, Representative Goss.

Mr. GOSS. Thank you, Mr. Mascara.

Mr. MASCARA. In fact, his wife comes from my home county, Washington County, PA.

Mr. MICA. Thank you, Mr. Mascara. We will yield to Mr. Bass now.

Mr. BASS. Thank you, Mr. Chairman. Representative Goss, I will be real quick. I have four brief questions. Has this bill been introduced before? Is there a history of debate over this in the past, do you know?

Mr. GOSS. No. We actually started drawing it up a while ago, but I am informed by staff that we have not formally introduced it before.

Mr. BASS. It is not a perennial argument, then, that occurs?

Mr. GOSS. No. I think we sorted this out. This one was sort of like the perks for former speakers. We have a list of these things, and we have tried to package them in accountability reforms and some of the other good work that this committee and others have done in the area of reform and accountability. We have got some leftover pieces. This, I think, is a leftover piece and now is a free-standing bill.

Mr. BASS. Does this apply to district employees or not?

Mr. GOSS. It would apply to any employees, I think, of a Member of Congress' office.

Mr. BASS. A district employee could get into the civil service system, either in the district or in Washington?

Mr. GOSS. There are no differences.

Mr. BASS. Is there any equivalent protection for Schedule C appointments in the executive branch, if there were a change of President?

Mr. GOSS. I don't think so. That is really high-risk.

Mr. BASS. Can you think off the top of your head of any equivalent application to any private sector employment?

Mr. GOSS. I have not thought of it in terms of private sector. Again, I was thinking in terms of congressional reform. I don't know of any. You know, I basically oppose discrimination of any type, whether it is hiring or firing or anything else. We have said discrimination in this country is illegal. If you are going to give somebody an advantage and put a burden of proof on them to prove something, you have got to have a justification. I do not see one here.

Mr. BASS. Thank you very much, Mr. Chairman.

Mr. MICA. Did you have any further questions, either side?

[No response.]

Mr. MICA. We want to thank you, Mr. Goss for your leadership on this issue. As you can see, there is some diversity of opinion about what needs to be done, but it is important that we air the issue. We thank you for participating with the panel today.

Mr. BASS. I thank the chairman for the time and the members' attention on this. Thank you, sir.

Mr. MICA. Thank you. Our second panel is Mr. Mark Levin, who is the director of legal policy for the Landmark Legal Foundation.

Mr. Levin, it is a custom of this subcommittee to swear in our witnesses. If you will stand and raise your right hand?

[Witness sworn.]

Mr. MICA. Thank you. Let the record reflect an affirmative response. Well, we welcome you as the only member of the second panel. We look forward to your testimony and comments.

STATEMENT OF MARK R. LEVIN, DIRECTOR OF LEGAL POLICY, LANDMARK LEGAL FOUNDATION

Mr. LEVIN. Thank you for inviting me, sir. Could I have my testimony submitted in full for the record?

Mr. MICA. Without objection. If you would like to summarize, we would appreciate that.

Mr. LEVIN. All right.

Mr. MICA. Thank you.

Mr. LEVIN. I do want to summarize. Before I do that, I have heard some interesting discussions. I would like to address a couple of the points and then take whatever questions you all might have. The list of others that have preferential treatment, veterans and so forth, none of those other organizations or individuals are based on their political affiliation.

Ex-civil service employees, Peace Corps volunteers, combat veterans, veterans, disabled veterans, do not get jobs because they are Republicans or Democrats or happen to be in the right place at the right time. Others who receive preferential privileges may well, as the Congressman mentioned, be worthy of review.

Second, I have heard that 2,000 to 2,500 congressional or House employees lost their positions. I also heard you, Congressman Mica, mention that there are 684 ex-staffers who sought certifications. I am not very good at math but the way I count that means over 25 percent, who have actually sought the certification, I assume, are out hunting for Ramspeck appointments—or at least most of them would be.

Third, as for the numbers, and as for the interest in the constituencies and as for the interest in the district, you know, when my little girl, who is 7 years old, butts in the line at the cafeteria at her school and I am told about it, I tell her that is wrong. I do not sit down and calculate statistically how many opportunities she had to butt in line or how many of her fellow youngsters butt in line. If it is wrong, it is wrong. I think that is the issue here.

Moreover, we are not just talking about the Ramspecked people themselves. When somebody gets a Ramspeck appointment, there could be 10 other civil servants who have been on the job 15 years, 20 years, 25 years, who have families, who want promotions, who want lateral movements, who do not want to be fired when you are reducing 272,900 positions.

You could have 10 times 126 people who are affected—1,000, 2,000, 3,000 who are desperately looking for jobs to avoid being laid off or subjected to a buyout. I think the use of statistics are extremely misleading. With respect to the issue of justice, I think they are extremely irrelevant.

As for job security, if the issue is job security, then I think what Congress has to come to grips with is: Why is job security for congressional staff important when they are dismissed but not when they are hired? They are hired as political appointees, at-will appointees, who are clearly qualified to do what you want them to do.

When you pick a press secretary, you want the press secretary to represent your views and to be competent, to be qualified, and so forth. That person has no job security. If you are worried about job security for congressional staff, first and foremost, maybe you should consider applying the civil service career status to these employees. I do not recommend it, but if that is the driving issue, it is certainly worth consideration, because today the people sitting behind you have no job security.

The issue also, in my mind, is not whether the people who wind up getting the Ramspeck jobs—the 126, although I have heard 136, 127, and my guess is over the last 10 years it is probably 1,000—is not whether they are qualified. By law they must be qualified. The issue is whether they are the most qualified.

Under the Ramspeck Act you are saying, "We do not want to know who else is qualified. We do not want to know if somebody is more qualified. You worked on the Hill, you are the best qualified."

Now, I guess I should have introduced myself. I am Mark Levin, director of legal policy at Landmark Legal Foundation. Landmark is a public interest law foundation based in Kansas City, MO, with offices in Washington, DC. We clearly favor repealing this law.

On March 26, 1994, the National Journal reported as follows: "The Ramspeck Act gives a leg up on executive branch jobs to congressional and judicial branch employees with at least 3 years of total service who were involuntarily separated from their jobs if their bosses die," which, by the way, happens every day, "retire or are defeated."

For years Democrats have accused Republicans and Republicans have accused Democrats of abusing and politicizing the Ramspeck Act. If it is not so important, we sure do spend a lot of money with GAO and OPM monitoring it, conducting hearings and discussing it, and producing reports about it.

Congress issues findings that one side or the other either endorse or condemn. Far too much of the taxpayers' money and congressional time, in my judgment, is used trying to police this flawed law. I think it is flawed for several reasons, and it needs to be eliminated.

The Ramspeck Act undermines fair play and fair competition. There should not be one employment standard for the staff of those who represent the people and another standard for the people they represent.

The Ramspeck Act runs counter to fair play and fair competition, which are principles embraced and cherished by the American people. Special privilege and status should not enure to those who manage to gain employment on Capitol Hill.

We have a civil service system in this country because, in part, we decided long ago that the Federal bureaucracy should consist of men and women who receive appointment to public positions primarily through competition and merit selection. The Ramspeck Act is one of these non-merit-based preferences and, unlike all the others, it is politically based.

There is no Ramspeck Act protecting the 2,000 to 3,000 noncareer political appointees who lose their jobs at the end of an administration. There is no Ramspeck Act for the tens of thousands of unemployed IBM, Mobil, U.S. Steel, General Motors, and other private sector workers. There is no Ramspeck Act for the farmers, ranchers, loggers, and fishermen who face difficult financial times. There is no Ramspeck Act for the small businessmen who lose lifetime investments when their enterprises fail.

Yet all of these people have families to care for and mortgages and bills to pay. I daresay if they did become aware of the Ramspeck Act, they would be pretty darn furious. Hopefully, hearings like this will make them aware.

It also undermines the electorate. In certain significant respects, the Ramspeck Act undermines the electoral process. Indeed, the law is tailored to protect and insulate congressional staff from the electorate.

For instance, when citizens vote to remove a Member of Congress and vote for change in policy and leadership, they do not expect to trigger a specially crafted fast-track hiring mechanism, enabling eligible aides of that defeated member to gain lifetime job security at taxpayers' expense.

When Congress announces cuts in personal and committee staffs, the American people do not anticipate that certain unemployed Hill staffers will as a direct result of those reductions become eligible for permanent career positions in the executive branch, but they do. When an ex-staffer receives a Ramspeck appointment, the cost shifts from Congress to the executive branch. The taxpayers pay for it either way.

Importantly, it undermines the civil service system. The Ramspeck Act creates a mechanism and opportunity to appoint political and ideological partisans to career civil service positions. That is why Congress frequently has its GAO chasing down these appointments. Who got what, how, and when?

The fact is that the overwhelming number of Ramspeck appointments during Republican administrations come from Republican ranks, and during Democratic administrations come from Democratic ranks. You might say politics is job one when it comes to Ramspeck.

This practice is in full display now at the Interior Department. The public record shows, for instance, that in the first few months after the November 8 election the Interior Department hired 15 former staffers under the Ramspeck Act, all of whom worked for congressional Democrats. I have no doubt Republicans do the same thing.

Twelve of the 15 now hold senior career positions and are paid at the GS–14 or GS–15 levels, meaning they earn from $60,925 a year to $93,166 a year. This information is based on the public record.

The Interior Department positions these ex-Hill staffers reportedly fill include, and I am not going to read them all, Manager of International Activities and Marine Minerals, Minerals Management Service. Why wasn't this position competed? How do we know there are not more qualified people? How do we know 10 longtime career civil servants would not have liked to have applied for that job and competed fairly on the merits?

A program manager, Fish and Wildlife Service. Why wasn't this position competed? Legislative Specialist, Fish and Wildlife Service. Why is this a career position? The fact is, when you have a director of a bureau like the Bureau of Land Management, they want to choose.

A new administration—Democrat, Republican, liberal, or conservative—a new director needs to be able to pick his own special assistant, just like each Member of Congress picks his own public affairs person, his own legislative affairs person. That is why we have Schedule C and non-career SES's political appointments.

What is the next Director of the Bureau of Land Management to do when he has a special assistant who is career, two press people who are career, and a legislative assistant who is career, and they all come from the other party's staff? Is that sound management? I am not going to read the entire list; they are in the testimony.

It is incongruous to give these individuals a leg up by circumventing the usual competitive process for career employment in the civil service and assigning them immediate career status because, in part, they served in noncareer political positions on Capitol Hill for an aggregate of 3 years.

If a congressional staff person wishes to join the career ranks in the Federal bureaucracy and that congressional staffer believes he or she is uniquely qualified for that position, he or she should compete for it. That way the best qualified candidate receives the appointment. The competitive merit-based civil service system is preserved.

Moreover, just as Members want and have the widest latitude in choosing personal and committee staff, senior executive branch officials want and need the same flexibility. For instance, I doubt if Congressman Moran would want to be hindered with staff from Congressman Dornan's office, or vice versa.

In recognition of this fact, 2,000 to 3,000 noncareer Schedule C and SES positions were created. It would be reasonable, then, for a Democratic administration to appoint ex-Democratic Hill staffers to these noncareer jobs, just as it would be reasonable for Republican administrations to appoint ex-Republican Hill staffers to these noncareer jobs. The Ramspeck Act disrupts both the competitive and political appointment process by assigning career status to former Hill political appointees.

Just to skip through here. Last, the act undermines the current efforts at downsizing. On March 23, 1995, Senator Bill Roth, chairman of the Senate Governmental Affairs Committee, the counterpart of this general committee, issued a news release reporting on the GAO's findings relating to noncareer appointments made after the 1994 election.

He was concerned that while 272,900 positions are being reduced, which is expensive—buyouts, reductions in force, and so forth—there were a large number of Ramspeck appointments occurring.

Moreover, continuing with the Interior Department example, after the 15 Ramspeck appointments were secured at Interior, a memo was issued freezing hiring of all outside applicants. Remember, there are civil servants in other departments that may want to work at the Interior Department, but they are frozen out, as I read this memorandum.

The rush to place ex-congressional staffers in career positions immediately prior to a hiring freeze, and in the face of a government-wide reduction force, is unjustifiable and no doubt demoralizing to at least some people in the civil service. Nonetheless, this kind of conduct falls within the Ramspeck Act.

That closes my testimony, Mr. Chairman.

[The prepared statement of Mr. Levin follows:]

PREPARED STATEMENT OF MARK R. LEVIN, DIRECTOR OF LEGAL POLICY, LANDMARK LEGAL FOUNDATION

Mr. Chairman, Members of the Committee, my name is Mark Levin. I am Director of Legal Policy for Landmark Legal Foundation, a public interest law foundation based in Kansas City, Missouri, with offices in Washington, D.C. I am here today to testify in favor of repealing the Ramspeck Act.

The Ramspeck Act, passed in 1940 under the sponsorship of Rep. Robert Ramspeck, is a form of affirmative action for congressional staffers. This law should have been abolished long ago. It certainly should have been included among the special privileges and legal exemptions eliminated when Congress passed recently the Congressional Accountability Act—which was intended to apply the same laws to Members of Congress and their staffs that apply to the rest of America.

On March 26, 1994, the National Journal reported:

> [The Ramspeck Act] gives a leg up on executive branch jobs to congressional and judicial branch employees with at least three years of total service who are 'involuntarily separated' from their jobs—if their bosses die, retire or are defeated, for instance, or if their jobs are restructured out of existence. They avoid the regular competitive process and are given immediate—and highly coveted—career status. (Attachment A)

For years Democrats have accused Republicans—and Republicans have accused Democrats—of abusing and politicizing the Ramspeck Act. The General Accounting Office (GAO) is asked to investigate. It issues findings that one side or the other either endorse or condemn. Far too much of the taxpayers' money, and congressional time, is used trying to police this flawed law.

The Ramspeck Act is not susceptible to "reform." To paraphrase Milton Friedman—reforming the Ramspeck Act is like asking a cat to bark. It won't work. The Ramspeck Act is fatally flawed. The following are several of the key reasons for eliminating it.

UNDERMINES FAIR PLAY AND FAIR COMPETITION

There should not be one employment standard for the staff of those who represent the people, and another standard for the people they represent. The Ramspeck Act runs counter to fair play and fair competition, which are principles embraced and cherished by the American people. Special privilege and status should not inure to those who manage to gain employment on Capitol Hill, to the detriment and exclusion of equally deserving and qualified citizens.

We have a civil service system in this country because, in part, we decided long ago that the federal bureaucracy should consist of men and women who receive appointment to public positions primarily through competition and merit selection. Over the years, this notion has been chipped away, with various preferences given to job applicants for reasons having nothing to do with merit. The Ramspeck Act is one of those non-merit based preferences. It was written by Congress fifty years ago to help congressional staffers. In short, the Act gives preference to those who are politically connected on Capitol Hill.

Of course, there is no Ramspeck Act protecting the 2,000 to 3,000 non-career, political appointees who lose their jobs at the end of an administration. There is no Ramspeck Act for the tens of thousands of unemployed IBM, Mobil, U.S. Steel, General Motors, and other private sector workers. There is no Ramspeck Act for the farmers, ranchers, loggers and fishermen who face difficult financial times. There is no Ramspeck Act for the small businessmen who lose life-time investments when their enterprises fail. Yet all of these people have families to care for, and mortgages and bills to pay. It is simply wrong for Congress to continue to give special treatment to its own staff, as a matter of law. Congressional staffers are no better or worse than their fellow citizens.

UNDERMINES THE ELECTORATE

In certain significant respects, the Ramspeck Act undermines the electoral process. Indeed, the law is tailored to protect and insulate congressional staff from the electorate. For instance, when citizens vote to remove a Member of Congress—and vote for a change in policy and leadership—they do not expect to trigger a specially crafted, fast-track hiring mechanism enabling eligible aides of that defeated Member to gain life-time job security at taxpayers' expense.

Moreover, when Congress announces cuts in personal and committee staffs, the American people do not anticipate that certain unemployed Hill staffers will, as a direct result of those reductions, become eligible for permanent career positions in the executive branch. But they do. And when an ex-staffer receives a Ramspeck appointment, the cost shifts from Congress to the executive branch. Of course, the taxpayers still pay the bill.

This "Inside-the-Beltway" behavior does not sit well with the voters. And if it persists, I expect it might stimulate a broader term limits movement that would not only demand limited terms for Members of Congress, but their staffs as well.

UNDERMINES THE CIVIL SERVICE SYSTEM

The Ramspeck Act creates a mechanism and opportunity to appoint political and ideological partisans to career civil service positions. The fact is that the overwhelming number of Ramspeck appointments during Republican Administrations come from Republican ranks, and during Democratic Administrations come from Democratic ranks.

This practice is in full display right now at the Interior Department. The public record shows, for instance, that in the first few months after the November 8, 1994, election, the Interior Department hired fifteen former staffers under the Ramspeck Act, all of whom worked for congressional Democrats. Twelve of the fifteen now hold senior career positions and are paid at the GS–14 or GS–15 levels, meaning they earn from $60,925 to $93,166 a year. (Attachment B)

The Interior Department positions these ex-Capitol Hill staffers reportedly fill include the following:

- Manager of International Activities and Marine Minerals, Minerals Management Service. (Why wasn't this position competed?)
- A Program Manager, Fish and Wildlife Service. (Why wasn't this position competed?)
- Legislative Specialist, Fish and Wildlife Service. (Why is this a career position?)
- "Team Leader", Bureau of Land Management's Public Affairs Office. (Why is this a career position?)
- Two public affairs positions, Bureau of Land Management's Public Affairs Office (reporting to the "Team Leader "). (Why are these career positions?)
- Special Assistant to the Director, Bureau of Land Management. (Why is this a career position?)
- Assistant to the Reclamation Commissioner. (Why is this a career position?)
- Policy Analyst, Bureau of Reclamation. (Why wasn't this position competed?)
- Issues Manager, Bureau of Reclamation. (Why wasn't this position competed?)
- Congressional Affairs Officer, National Biological Service. (Why wasn't this position competed?)
- Chief for Scientific Planning and Coordination, National Biological Service. (Why wasn't this position competed?)
- Two Legislative Affairs Specialists, National Park Service. (Why are these career positions?)
- Public Affairs Specialist, National Park Service. (Why is this a career position?)

It should come as no surprise that most congressional staffers reflect, or are sympathetic to, the views and policies supported by the Members who employ them. Many staffers are hired by Members not only because they are considered technically competent to do the job, but because of their political associations and loyalties as well (e.g., campaign work).

It is incongruous, therefore, to give these individuals a "leg up" by circumventing the usual competitive process for career employment in the civil service and assigning them immediate career status because, in part, they served in non-career, political positions on Capitol Hill a total of three years. If a congressional staff person wishes to join the career ranks in the federal bureaucracy, and that congressional staffer believes he is uniquely qualified for a given career position, he should compete for the job against others who also believe they are qualified. In that way, the best qualified candidate receives the appointment, and the competitive, merit-based civil service system is preserved.

Moreover, just as Members want and have the widest latitude in choosing personal and committee staff, senior executive branch officials want and need the same flexibility. In recognition of this fact, 2,000 to 3,000 non-career Schedule C and SES positions were created. It would be reasonable, then, for a Democratic administration to appoint ex-Democratic Hill staffers to these non-career jobs, just as it would be reasonable for Republican administrations to appoint ex-Republican Hill staffers to these non-career jobs.

However, the Ramspeck Act disrupts both the competitive and political appointment process by assigning career status to former Hill political appointees. This can create a serious management issue for a new, incoming administration. For instance, at the Interior Department, four of the fifteen Ramspeck appointments went to public affairs positions, three went to legislative affairs positions, and two appointments involved a special assistant and assistant to a presidential appointee. If a Republican administration replaces the present administration, its senior officials should be able to appoint people they are comfortable with representing their positions to Congress and the public. By filling these positions with Ramspeck appointments, the current administration imposes its influence on the Interior Department long after it leaves. Of course, such a practice ties the hands of the incoming admin-

istrators and may hinder the ability of the new administration to promote its own agenda.

I doubt Members of Congress would accept the imposition of these personnel practices on their own offices for they lead to absurd results.

UNDERMINES EFFORTS AT DOWNSIZING

On March 23, 1995, Sen. William Roth, Chairman of the Senate Governmental Affairs Committee, issued a news release which reported on the GAO's findings relating to non-career appointments made after the 1994 election. Among other things, the GAO found that from December 1, 1994 through February 28, 1995—a mere three month period—there were seventy-four Ramspeck appointments. This, at a time when 272,900 federal employees are leaving the federal government through buyouts and reductions in force. (Attachment C)

Moreover, continuing with the Interior Department example, after the fifteen Ramspeck appointments were secured at Interior, Bonnie R. Cohen, Assistant Secretary for Policy, Management and Budget, issued a memorandum on March 13, 1995, stating, in part, the following:

> In view of continued downsizing and consolidation of functions, effective immediately a Department wide freeze is placed on hiring, at all grade levels, from outside Interior. (Attachment D)

The rush to place ex-congressional staffers in career positions immediately prior to ordering a hiring freeze, and in the face of a government-wide reduction in force, is unreasonable, unjustifiable and no doubt demoralizing to tens of thousands of career civil servants. Nonetheless, this kind of conduct falls within the four corners of the Ramspeck Act.

[NOTE.—Attachments A–D can be found in the subcommittee's files.]

Mr. MICA. We thank you, Mr. Levin, for your testimony. Obviously, you have very strong opinions on this matter. I am wondering if within the parameters which you outlined in your opposition to Ramspeck as a whole, if there is any room at all for compromise? Do you think that the legislation can be modified to ensure that there are some protections and also some opportunities for individuals who have served?

Right now I think the law requires about 3 years' service, and people who have been here for 5 years or so that transfer to a position, a qualified position, not a position created just for that individual. Do you feel these individuals should have any rights in the civil service system?

Mr. LEVIN. I think if they are granted rights in the civil service system, they should receive those rights when they walk in the door, not when they leave Congress. I think that would become a management problem for members who want to appoint staff with as much flexibility as possible.

To say when a Member dies, retires, is defeated, when a committee's budget is reduced, or staff's budget is reduced, at that point, whatever the privilege is, some parallel to the career civil service, I do not think it is appropriate.

Mr. MICA. Well, also the question of whether this is a problem in numbers. As we look into some of the additional testimony here GAO will testify that 146 former congressional staffers have gained political appointments. You know we have what they call Schedule C political appointments.

Then we add 124 Ramspeck appointments, so we are up to 270. Some of those, I guess, would be duplicated in this, those who have certified, maybe another 600. We are up to maybe close to 1,000, which is about half of some of the staff positions that have been

eliminated in the House. We have not checked the Senate with all these figures.

Do you think that the only avenues that should be left are the available—you know, we create political slots, political appointee slots. There is a maximum in some of these agencies. Should those appointments be limited, in effect, to the slots that are available and appropriated by Congress?

Mr. LEVIN. I do not pretend to understand exactly how many slots have been appropriated by Congress. My past understanding was that an agency or department can go to OPM, and they basically keep a pool of these noncareer SES's which are not Ramspeck positions but are GM–, GS–15, and below, where they can allocate.

You see, I have a different point of view. There are 2,000 to 3,000 people in this administration. If they lose the next election, many will be unemployed. There is no protection for them. I am not saying "a pox" on all your houses.

I am saying there must be more of a rationale than once these people worked for Members of Congress, so they receive a leg up over somebody who was a special assistant to the Director of the Arms Control and Disarmament Agency, for example, who also has something to offer.

Incidentally, I do not pretend to speak for the electorate, but the electorate may want a bit of a house cleaning. It may also be that there are good jobs that could be found outside of the civil service system. I don't know. I do not see reforming this program as anything but, again, a leg up of some sort above the civil service career people and above the political appointees in the administration.

Mr. MICA. Well, again, you have some pretty definite opinions, and I would like to defer for a moment to Mr. Mascara.

Mr. MASCARA. Well, I am sure it is your job to make the case or justification for the repeal of Ramspeck, because that is what you get paid to do. You were hired as a consultant?

Mr. LEVIN. No, I was not.

Mr. MASCARA. Well, whatever.

Mr. LEVIN. I was hired as a consultant? By whom?

Mr. MASCARA. Well, I do not know. I am asking the question.

Mr. LEVIN. No, I am not a consultant. I am an employee at a legal foundation.

Mr. MASCARA. You offered to come here and testify on behalf of——

Mr. LEVIN. I did not offer anything. I wrote articles, and I was asked to testify.

Mr. MASCARA. Well, I take umbrage with your statements that further the cause of denigrating the integrity of this institution and the people that are represented in this Congress. You keep talking about the electorate and how shameful it is that that electorate out there is concerned about Ramspeck. As I said before, I do not see that.

I am concerned that your testimony goes well beyond what I think is justified as it relates to the Members of the Congress and how they deal with problems associated with Ramspeck, or any other problems that might be a concern of the American people. I think some of what you engaged in was political rhetoric. I do have a question. Do you have proof that 600——

Mr. LEVIN. Well, first may I respond to your rather——

Mr. MASCARA. Well, Mr. Chairman, you are the boss here.

Mr. MICA. If you would like to, go ahead and respond. Then you can ask another question.

Mr. LEVIN. Well, with all due respect, Congressman, I do not get paid to come here and testify.

Mr. MASCARA. OK. You have already said that.

Mr. LEVIN. Congressman, may I answer the question?

Mr. MASCARA. You do not need to repeat that. Thank you.

Mr. LEVIN. I think the most political statement made here today was yours.

Mr. MASCARA. OK.

Mr. LEVIN. I do not denigrate the integrity of this institution.

[Simultaneous discussion.]

Mr. LEVIN. Excuse me, sir. I was brought up to respect this institution, and I love this institution as much as you do, even though I am not a Member of Congress. I was hoping that we would not get into personal situations. You are wondering if I am a consultant and so forth. We can discuss the issue on the merits. I promise not to characterize your comments as political, as hyperbole, if you promise not to characterize mine the same way.

Mr. MASCARA. Well, I have some strong feelings about what you said, and I think that is my prerogative to make the statements I made.

Mr. LEVIN. Likewise.

Mr. MASCARA. I have a problem with the way the testimony was presented. Do you have any proof of these 600 jobs, that somehow these people were not counseled to apply for Ramspeck, that somehow there is something sinister about Ramspeck and the program that is now in effect with some of those people who lost their jobs after the November election?

Mr. LEVIN. I have no problem with the integrity, the qualifications, the patriotism, the citizenship qualifications of any of these individuals who have applied. There is nothing in my testimony, spoken or written, that suggests otherwise.

Mr. MASCARA. Do you have any proof that there was any political involvement in the process?

Mr. LEVIN. I do not have any proof there was political involvement, and that is not even the point of my testimony, that there is political involvement. The point of my testimony is that I do not think special privileges, Republican or Democrat, should be given to people because they happen to work on Capitol Hill.

Mr. MASCARA. Would you admit that some of the employees that are involved in Ramspeck are good resources for this Government and have a lot of experience and input? I have a personal experience because of Ms. Lowrey coming from another staff with 17 years of experience. I mean, there are a lot of good people on Capitol Hill who, because they work for a Congressman who lost an election, could still be utilized.

Mr. LEVIN. Congressman, we agree on that. There is absolutely no problem with that. What we seem to disagree on is the process. I think people should compete. I think there are wonderful people up here and there are wonderful people in other corners of our

country and our government that should all be able to compete for these jobs equally.

Mr. MASCARA. Thank you, Mr. Chairman.

Mr. MICA. Well, I thank the gentleman from Pennsylvania. Mr. Levin, one question before you leave us. You are the director of legal policy for the Landmark Legal Foundation. Tell us a little bit about the Landmark Legal Foundation. Are there other groups that share your opinion, taxpayer watch groups or Common Cause or any of the other guardians of public interest?

Mr. LEVIN. Well, believe it or not, I have not been working this issue that way. What I have done is simply reviewed it, commented on it, and have happily appeared at any hearing of this sort to discuss it. The Landmark Legal Foundation is a public interest legal foundation where we litigate issues across the country that promote individual liberty, free enterprise, issues of that sort.

Mr. MICA. Are there any other groups that share your opinion?

Mr. LEVIN. I do not know. I have not checked.

Mr. MICA. Finally, it is my understanding that you have served in senior political positions.

Mr. LEVIN. For 8 years.

Mr. MICA. Did you ever encounter any difficulties managing Ramspeck appointees? What was your experience? Did you see unqualified individuals coming into positions?

Mr. LEVIN. Well, to be honest, I would not have known whether they were Ramspeck or not, unless I went and checked their file or somebody told me. Most of the positions I had were fairly senior. I served 8 years in the Reagan administration, and I was not involved in helping anybody get a Ramspeck appointment. This is a matter of principle—Republican, Democrat, or otherwise.

Mr. MICA. To be fair, too, for the record, that is my understanding of the 684 that have qualified or certified for Ramspeck, there are both Republican and Democrat staffers.

Mr. LEVIN. I was just going to say that, it could be both.

Mr. MICA. There is a mix there, as I understand it. We thank you for your comments and your participation today.

Mr. LEVIN. All right, sir.

Mr. MICA. We will excuse you.

Mr. LEVIN. All right.

Mr. MICA. I call now on our third panel. We have Mr. Timothy Bowling, the General Accounting Office, and the Honorable James King, Director of the Office of Personnel Management. Welcome back to both of you. If you will remain standing and raise your right hands, I will swear you in. You have two others with you.

Could you identify yourselves for the record?

Mr. GRACE. My name is James Grace.

Mr. MICA. Yes. You are with?

Mr. GRACE. With the General Accounting Office.

Ms. OKIN. Carol Okin, Office of Personnel Management.

Mr. MICA. For the record, welcome. Thank you again.

If you will raise your right hands?

[Witnesses sworn.]

Mr. MICA. Thank you. The record will reflect that the witnesses answered in the affirmative.

Mr. Bowling, we just had you in here the other day. We should keep a room for you, an anteroom. And Mr. King is a regular. We welcome you back, and we look forward to both your observations and perspectives on this issue, which is heating up a bit as the hearing proceeds. We will call on you first, Mr. Bowling, if we may.

STATEMENT OF TIMOTHY BOWLING, ASSOCIATE DIRECTOR, FEDERAL HUMAN RESOURCE MANAGEMENT ISSUES, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JAMES GRACE, GENERAL ACCOUNTING OFFICE; JAMES B. KING, DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT, ACCOMPANIED BY CAROL OKIN, DIRECTOR, OFFICE OF MERIT SYSTEMS OVERSIGHT EFFECTIVENESS

Mr. BOWLING. Thank you, Mr. Chairman. With your permission, I would like to read a shortened version of my statement and provide the full text for the record.

Mr. MICA. Thank you. Without objection, your full text will be entered in the record.

Mr. BOWLING. We are pleased to be here today to discuss the use of the Ramspeck Act to noncompetitively appoint congressional employees to career positions in executive branch departments and agencies. As agreed with your subcommittee and the other requesters of this work, we are monitoring the Ramspeck Act appointments to grades 9 and above at 28 selected agencies.

Our work to date shows that 124 Ramspeck Act appointments have been made during the period January 1, 1994, through April 30, 1995. These numbers are changing as time goes on. We continue to monitor the Ramspeck situation, so our testimony from 2 weeks ago for Senator Stevens would show a different number. Another 146 appointments of congressional staff, including Schedule C and temporary appointments, have been made through other procedures.

Eighteen of the 28 agencies covered by our current work reported making Ramspeck Act appointments to grade 9 and above during the 16-month period ending April 30, 1995. The cabinet level departments accounted for the majority, making 104 of the 124 appointments. The Departments of the Interior and Treasury made 15 appointments each, followed by the Department of Health and Human Services with 11 and the Department of Energy with 10. Three other departments—Defense, Transportation, and Veterans Affairs—made anywhere from seven to nine appointments each.

About 75 percent of the Ramspeck Act appointments made during this period fall into three occupational series: GS–301, the Miscellaneous Administration and Program series; GS–343, the Management and Program Analysis series; and GS–1035, the Public Affairs series. The GS–301 series is a broad category that includes positions that do not readily fall into other series.

Fifty-four Ramspeck Act appointments were made to the 301 series; 17 of which were to positions having titles such as legislative analyst or congressional affairs officer. Another 12 appointments within this series were to positions with titles such as executive assistant and staff assistant. Twenty-five appointments were made to the 343 series, and 14 were made to the 1035 series. These posi-

tions carried titles such as program/management analyst and public affairs specialist, respectively.

Ramspeck Act appointments can be made to grades 15 and below, but not to the SES level. Fifty-seven of the 124 appointments were made to the grade 14 and 15 levels, and another 24 were made to the grade 13 level. One hundred and seventeen of the 124 appointments were made to positions at agencies' headquarters' locations in Washington, DC, while 7 were at field locations around the country.

Agencies reported that 78 of the congressional employees receiving Ramspeck Act appointments had worked for House and Senate committees or subcommittees, while 40 had worked for individual members and senators.

At the subcommittee's request we also reviewed three agencies in greater detail to determine whether any of their Ramspeck Act appointments were made to positions that had been advertised and were, therefore, open to competition. Our review of 39 Ramspeck Act appointments made by the Department of HHS, Interior, and Treasury identified 15 appointments to positions that had been advertised through vacancy announcements. For the 15 positions that had been advertised, 2 Ramspeck applications were submitted before the announcement opened, 8 were submitted while the announcement was open, and 5 were submitted after the announcement had closed.

In 10 cases agencies included Ramspeck applicants on the certificates of eligible candidates and selected them for the positions. The remaining 5 Ramspeck appointees were not on certificates of eligible candidates, apparently because their applications were received anywhere from 31 to 179 days after the vacancy announcements had closed.

In three cases we found that the Ramspeck Act appointee was the only one to apply for the position. In two of the three cases, the appointee submitted a Ramspeck application before the agency announced the position. In the third case, the agency announced the position on December 21, 1994, and closed it on January 2, 1995, which is a time when many potential applicants may have been away from their jobs and might account for the fact that there were no other applicants.

We have also obtained information from OPM on Ramspeck Act appointments made during the period October 1, 1984, through June 30, 1994. This is the most recent period for which OPM data were available. A total of 552 appointments were made during this period. Figure 1 in this statement shows the number of appointments made by calendar year.

As you know, a principal purpose of the Ramspeck Act is to help qualified congressional staffers obtain career positions in the civil service if they are separated involuntarily and without prejudice from congressional employment. This occurs, of course, most often when a Member of Congress retires, chooses not to seek reelection, or loses reelection. As Figure 1 shows, even-numbered years—that is, national election years—are followed by an increase in Ramspeck Act appointment activity. An apparent explanation is that in these cases an increased number of congressional staff lost employment due to the election results, and subsequently secured

employment in the career service. As you can also see from that chart, the numbers appear to be going up over time. There seems to be an increasing use of the Ramspeck Act over the last several years.

Our analysis of Ramspeck Act appointments indicates that appointees have been receiving increasingly high grade levels in recent years. As I mentioned, about 46 percent of the Ramspeck Act appointments identified during our current work were to grades 14 and 15. We examined our historical data and found that over the 10-year period, 28 percent of the appointments were at the grade 14 and 15 levels. The grade level does seem to be going up recently.

The subcommittee also expressed an interest in any differences between Ramspeck, competitive, and excepted service hiring authorities in terms of the skills required for the positions filled. In describing these differences, we believe it would be helpful to include information regarding similar noncompetitive appointment opportunities for employees who serve on the White House staff under the authority contained under the Code of Federal Regulations.

Theoretically, the type of appointment used to fill a position should not affect the basic skill level of an appointee. Individuals who receive noncompetitive appointments under the Ramspeck Act or the regulatory authority contained in the Code of Federal Regulations covering White House staff, must meet the qualification standards prescribed for the position by OPM to the same extent as those individuals appointed under competitive procedures.

The use of competitive procedures makes it more likely that the best qualified individual is appointed to a position. Under competitive procedures applicants compete against other eligible candidates and are ranked based on their qualifications and ratings.

Ramspeck and White House service applicants, on the other hand, are not required to compete against other applicants. However, a recent OPM interagency advisory group memorandum recommended that to avoid the appearance of political favoritism, agency personnel directors should not accept Ramspeck applications unless applications from candidates eligible for reinstatement, transfer, and other noncompetitive authorities are also accepted.

In addition to the 124 Ramspeck Act appointments, the 28 agencies included in our review reported making 146 appointments of former congressional staff members under other appointing authorities. As with the Ramspeck Act appointments, the vast majority of these additional appointments, almost 90 percent, were made by cabinet-level departments. The Department of Commerce made the most with 19, Energy had 17, and Labor had 16.

About 83 percent of the 146 appointments fell into three groups: 56 were political appointments; another 17 were made under Schedule A authority, mostly to attorney-related positions; and 48 appointments were made to temporary and term-limited positions, including expert and consultant positions.

As for the type of jobs appointees received, about 67 percent, or 98 of the 146 appointments were made to the GS–301, Miscellaneous Administration and Program Job Series. Another 16 appointments were made to the GS–905, General Attorney Series.

Concerning grade levels, we found that 53 of the appointments were made to the grade 14 and 15 levels and 24 were to the grade 13 level; another 16 appointments were made to noncareer SES positions, and those of course are political appointee positions.

The vast majority, all but 10 of the 146 appointments, were made to headquarters jobs.

At three departments—HHS, Interior, and Treasury—we reviewed the appointments to determine whether the appointments other than the Schedule C and noncareer SES appointments, which are political, were made to positions that had been advertised and open to competition.

None of the seven appointments at Interior were competed, and the agency was not required to do so. These appointments included Schedule A attorney positions, temporary 30-day special need positions, and a reinstatement to a career position, none of which were required to be competed.

At Treasury we found that 6 of the 12 positions were advertised. These included three temporary positions, two career positions, and one Schedule A attorney position. The competition was open for at least 2 weeks in each case, and the number of applicants ranged from 7 to 26. The congressional employees who were selected for these positions applied for the positions within the vacancy announcement period. Of the six appointments not competed, five were Schedule A appointments and one was a temporary 30-day special need appointment that did not need to be competed.

Two positions at HHS were also advertised and competed. Twelve temporary appointments and 1 reinstatement to a career position did not need to be competed. In one competed case, the competition was open for about a month. The congressional employee applied within that time period and was selected from 18 applicants. We have not yet obtained the information on the second appointment.

At your request, Mr. Chairman, we will continue to monitor the Ramspeck Act and other appointments to the executive branch through the end of calendar year 1995, to give you a final tally on this series of information.

This concludes my prepared statement. I would be pleased to answer any questions at the appropriate time.

[The prepared statement of Mr. Bowling follows:]

PREPARED STATEMENT OF TIMOTHY BOWLING, ASSOCIATE DIRECTOR, FEDERAL HUMAN RESOURCE MANAGEMENT ISSUES, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE

SUMMARY OF STATEMENT

The Ramspeck Act was enacted to provide an opportunity for congressional employees who had rendered long and faithful service to members of Congress and were involuntarily separated to apply for noncompetitive appointments to the career service. Under the act, certain conditions must be met. Among other things, a candidate must have worked for Congress for a total of 3 years and must be appointed to a career position within 1 year of separation from congressional employment. The appointing official must ensure that the selected candidate is qualified for the career position. However, the official does not have to consider other qualified candidates. Two bills have recently been introduced to repeal the Ramspeck Act.

During the 16-month period ending April 30, 1995, 18 of the 28 agencies we reviewed reported 124 Ramspeck Act appointments at grades 9 and above. Appointments can be made under the act up to grade 15. About 75 percent of the appointments were to three occupational series: 301, Miscellaneous Administration and Pro-

gram (54 appointments); 343, Management and Program Analysis (25 appointments); and 1035, Public Affairs (14 appointments). Of the 124 Ramspeck Act appointments, 57 were made to grades 14 and 15. Another 24 were made to grade 13. Also, 117 appointments were made to positions at agency headquarters locations, while 7 were made to field or regional locations.

In addition to the 124 Ramspeck Act appointments, another 146 appointments of former congressional staff members under other authorities were reported by the 28 agencies. Most of these appointments were to Schedule C (political appointee) and temporary positions.

To determine whether longer term trends existed, GAO obtained information on Ramspeck Act appointments from the Office of Personnel Management during the period October 1, 1984, through June 30, 1994. During that time, agencies made 552 Ramspeck Act appointments. Most of the appointments were made in years immediately following national elections. Of the 552 appointments, 28 percent were at grades 14 and 15.

GAO also looked at the differences among the various hiring authorities and how they relate to the skills required for positions. The hiring authority used should not affect the basic skill levels required for positions because appointees must still be qualified for positions, even if hired noncompetitively. However, use of competitive procedures make it more likely that best qualified individuals will be selected for positions.

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the use of the Ramspeck Act to noncompetitively appoint congressional employees to career positions in executive branch departments and agencies. You asked us to discuss our ongoing efforts to track Ramspeck Act appointments both before and after the recent congressional election, with a specific emphasis on the following information:

- The number, locations, positions, and other characteristics of Ramspeck Act appointments;
- Long-term trends related to the use of the Ramspeck Act hiring authority; and
- Differences between Ramspeck Act hiring authority, competitive procedures, and other excepted hiring authorities in terms of skills required for positions.

You also expressed interest in the extent to which former congressional staff members have recently attained federal positions through other hiring mechanisms.

As agreed with the Subcommittee and other requesters, we are monitoring Ramspeck Act appointments to grades 9 and above, as well as other appointments, at 28 selected agencies. Our work to date shows that 124 Ramspeck Act appointments have been made during the period January 1, 1994, through April 30, 1995. Another 146 appointments of congressional staff, including Schedule C and temporary appointments, have been made through other procedures.

THE RAMSPECK ACT OF 1940

The Ramspeck Act of 1949, 5 U.S.C section 3304(c), was enacted to provide an opportunity to those congressional employees who had rendered long and faithful service to Members of Congress and who had acquired valuable experience in government to transfer to positions in the competitive service should their positions on the Hill terminate. Under the act, congressional employees can achieve competitive status for transfer if the following conditions are met:

- The employee must have worked for Congress for 3 years (the service need not be continuous).
- The employee must be separated involuntarily and without prejudice. (The employee's record must be good, and the final separation must be due to circumstances beyond the employee's control. These circumstances include the death, defeat, or resignation of the employer, lack of work, lack of funds, or office reorganization.)
- The employee must meet the basic qualifications for the position.
- The employee must transfer within 1 year of separation from the legislative branch. (There is no minimum time for the length of the last congressional appointment.)

Once these conditions are met, the employee acquires "competitive status for transfer." Although not an entitlement to a career position, this status effectively waives the requirement for competitive examination, including passing a written test if one is required. However, the appointing official who selects a Ramspeck-eligible candidate must ensure that the candidate is qualified for the career position. The official does not have to consider other qualified candidates but must comply with other applicable civil service rules and regulations, including those that pro-

hibit, among other things, discriminating for or against any eligible candidate on the basis of characteristics such as race, gender, or political affiliation.

In addition to congressional employees, the act also applies to any individual who served for at least 4 years as a secretary or law clerk to a justice or judge of the United States. The Office of Personnel Management (OPM) has oversight responsibility for Ramspeck Act appointments. However, it does not routinely conduct preappointment reviews of these noncompetitive appointments.

Two bills that would repeal the Ramspeck Act have recently been introduced in Congress. S. 177, which was introduced by Senator McCain on January 9, 1995, would repeal the Ramspeck Act after 2 years. A similar bill, H.R. 913, was introduced by Representative Goss on February 13, 1995. H.R. 913 would repeal the Ramspeck Act immediately.

The Ramspeck Act is similar to another noncompetitive appointment authority available to employees who serve in the Office of the President or Vice President or on the White House staff. Federal regulations authorize appointments to career positions for these employees, provided they have served at least 2 years and are appointed without a break in service.

CHARACTERISTICS OF RECENT RAMSPECK ACT APPOINTMENTS

Eighteen of the 28 agencies covered by our current work reported making Ramspeck Act appointments at grades 9 and above during the 16-month period ending April 30, 1995. The Cabinet-level departments accounted for the majority, making 104 of the 124 appointments. The Departments of the Interior and the Treasury made 15 appointments each, followed by the Department of Health and Human Services with 11 and the Department of Energy with 10. Three other departments—Defense, Transportation, and Veterans Affairs—made anywhere from seven to nine appointments each.

About 75 percent of the Ramspeck Act appointments made during this period fall into 3 occupational series—GS–301, the miscellaneous Administration and Program series; GS–343, the Management and Program Analysis series; and GS–1035, the Public Affairs series. The GS–301 series is a broad category that includes positions that do not readily fall into other series. Fifty-four Ramspeck Act appointments were made to this series. Seventeen of these were to positions having titles such as legislative analyst or congressional affairs officer. Another 12 appointments within this series were to positions with titles such as Executive Assistant and staff assistant. Twenty-five appointments were made to the GS–343 series and 14 appointments were made to the GS–1035 series. These positions carried titles such as program/management analyst and public affairs specialist, respectively.

Ramspeck Act appointments can be made to grades 15 and below. Fifty-seven of the 124 appointments were made to the grade 14 and 15 levels. Another 24 were to the grade 13 level. One hundred and seventeen of the 124 Ramspeck Act appointments were made to positions at agencies' Washington, D.C. area headquarters locations. Seven were at field or regional locations. Agencies reported that 78 of the congressional employees receiving Ramspeck Act appointments had worked for House and Senate committees/Subcommittees, while 40 had worked for individual Members and Senators. They served in a variety of positions, including professional staff member, legislative assistant, staff director, and chief of staff. We were unable to determine where six congressional employees worked before receiving a Ramspeck Act appointment.

At the Subcommittee's request, we also reviewed three agencies to determine whether any of their Ramspeck Act appointments were made to positions that had been advertised and were therefore open to competition. Our review of 39 Ramspeck Act appointments made by the Departments of Health and Human Services, Interior, and Treasury identified 15 appointments to positions that had been advertised through vacancy announcements.

For the 15 positions that had been advertised, two Ramspeck applications were submitted before the announcement opened, eight were submitted while the announcement was open, and five were submitted after the announcement closed.

In 10 cases, agencies included the Ramspeck applicants on the certificates of eligible candidates and selected them for the positions. The agencies cited the Ramspeck Act as the basis for the appointments. The remaining five Ramspeck appointees were not on certificates of eligible candidates, apparently because their applications were received anywhere from 31 to 179 days after the vacancy announcements had closed. Irrespective of this, the agencies selected these individuals and cited the Ramspeck Act as the basis for the appointments. The appointments to the positions took place anywhere from 1 to 4 months after the individuals had submitted their

applications. The number of applicants who were on certificates, but were not selected, ranged from 1 to 17.

In three cases, we found that the Ramspeck Act appointee was the only one to apply for the position. In two of the three cases, the appointee submitted a Ramspeck application before the agency announced the position. In the third case, the agency announced the position on December 21, 1994, and closed it on January 2, 1995, a time when many potential applicants may have been away from their jobs The appointee's application was dated December 30, 1994.

HISTORICAL TRENDS IN RAMSPECK ACT APPOINTMENTS

At the request of Representative Schroeder, we have obtained information from OPM on Ramspeck Act appointments made during the period October 1, 1984, through June 30, 1994. This is the most recent period for which OPM data were available. A total of 552 appointments were made during this period. Figure 1 shows the number of appointments by calendar year.

FIGURE 1: RAMSPECK ACT APPOINTMENTS

[October 1, 1994—June 30, 1994]

Years	Number of appointments
1984	5
1985	41
1986	32
1987	110
1988	35
1989	52
1990	30
1991	82
1992	43
1993	102
1994	20

Source: Office of Personnel Management's Central Personnel Data File

As you know, a principal purpose of the Ramspeck Act is to help qualified congressional staffers obtain career positions in the civil service if they are separated involuntarily, and without prejudice, from congressional employment. This occurs most often when a Member of Congress retires, chooses not to seek reelection, or loses reelection. As Figure 1 shows, even-numbered years—that is, national election years—are followed by an increase in Ramspeck Act appointment activity. An apparent explanation is that, in these cases, an increased number of congressional staff lost employment due to the election results and subsequently secured employment in the career service. The most noticeable increases occurred in 1987 and 1993.

Our analysis of Ramspeck Act appointments indicates that appointees have been receiving increasingly high grade levels in recent years. As I have mentioned, about 46 percent of the Ramspeck Act appointments identified during our current work were to grades 14 and 15. We examined our historical data and found that over the 10-year period, 28 percent of the appointments were at grades 14 and 15.

I should point out that any comparison of historical data to our current efforts is not an exact match, since our current work addresses Ramspeck Act appointments at grades 9 and above, covers a 16-month period, and includes only 28 agencies. The historical data is on a calendar year basis, is government wide, and includes appointments at all grade levels.

DIFFERENCE BETWEEN RAMSPECK AND OTHER HIRING AUTHORITIES

The Subcommittee expressed interest in any differences between Ramspeck, competitive, and excepted service hiring authorities in terms of the skills required for the positions filled. In describing these differences, we believe it would be helpful to include information regarding similar noncompetitive appointment opportunities for employees who serve on the White House staff under the authority contained in Section 315.602 of Title 5, Code of Federal Regulations.

Theoretically, the type of appointment used to fill a position should not affect the basic skill level of an appointee. Individuals who receive noncompetitive appointments under the Ramspeck Act or the regulatory authority contained in 5 C.F.R. 315.602 must meet the qualification standards prescribed for the position by OPM

to the same extent as those individuals appointed under competitive procedures. Individuals appointed to Schedule B positions in the excepted service must also meet OPM's qualification standards, while agencies are generally responsible for establishing qualification standards for positions they fill by other excepted service authorities.

The use of competitive procedures makes it more likely that the best qualified individual is appointed to a position. Under competitive procedures, applicants compete against other eligible candidates and are ranked based on their qualifications and ratings. Ramspeck and White House service applicants, on the other hand, are not required to compete against other applicants. However, a recent OPM Interagency Advisory Group Memorandum recommended that, to avoid the appearance of political favoritism, agency personnel directors should not accept Ramspeck applications unless applications from candidates eligible for reinstatement, transfer, or other noncompetitive authorities are also accepted.

One difference between these appointing authorities concerns the status of the applicants upon appointment. An individual appointed to a position in the excepted service or under the Ramspeck Act or White House service authority is not required to serve a 2-year probationary period as do those individuals who are appointed under competitive procedures. Furthermore, individuals appointed to a position in the excepted service or under the authority of the Ramspeck Act are not required to serve for 3 years in order to be converted from career-conditional to career status. However, like those individuals appointed under competitive procedures, former White House employees must satisfy the service requirement for career tenure. Although not required to do so, it is our understanding that agencies have adopted similar procedures and practices to ensure compliance with merit principles.

OTHER APPOINTMENTS RECEIVED BY FORMER CONGRESSIONAL STAFF

In addition to the 124 Ramspeck Act appointments, the 28 agencies included in our review reported making 146 appointments of former congressional staff members under other appointing authorities. As with the Ramspeck Act appointments, the vast majority of these additional appointments, almost 90 percent, were made by Cabinet-level departments. The Department of Commerce made the most—19 appointments. The Department of Energy made 17 appointments and the Department of Labor made 16 appointments.

About 83 percent of the 146 appointments fell into three groups. Fifty-six were political appointments. These included 40 appointments to Schedule C positions and 16 appointments to noncareer SES positions. Another 17 appointments were made under Schedule A authority, mostly to attorney-related positions. Forty-eight appointments were made to temporary and term limited positions, including expert and consultant positions.

As for the types of jobs appointees received, about 67 percent, or 98 of the 146 appointments, were made to the GS–301 Miscellaneous Administration and Program job series. Another 16 appointments were made to the GS–905 General Attorney series.

Concerning grade levels, we found that 53 of the appointments were made to the grade 14 and 15 levels. Twenty-four were to the grade 13 level.

The vast majority, all but 13 of the 146 appointments, were made to headquarters jobs.

At three departments—Health and Human Services, Interior, and Treasury—we reviewed the appointments to determine whether the appointments (other than Schedule C and noncareer SES appointments) were made to positions that had been advertised and open to competition. None of the seven appointments at Interior were competed and the agency was not required to do so. These appointments included Schedule A attorney positions, temporary 30-day special need positions, and a reinstatement to a career position, none of which were required to be competed. At Treasury, we found that 6 of 12 positions were advertised. These included three temporary positions, two career positions, and one Schedule A attorney position. The competition was open for at least 2 weeks in each case, and the number of applicants ranged from 7 to 26. The congressional employees who were selected for these positions applied for the positions within the vacancy announcement period. Of the six appointments not competed, five were Schedule A appointments and one was a temporary 30-day special need appointment that did not need to be competed.

Two positions at Health and Human Services were also advertised and competed. Twelve temporary appointments and one reinstatement to a career position did not need to be competed. In one competed case the competition was open for about 1 month. The congressional employee applied within that time period and was se-

lected from 18 applicants. We have not yet obtained the information on the second appointment.

At your request Mr. Chairman, we will continue to monitor Ramspeck Act and other appointments to the Executive Branch through the end of calendar year 1995.

This concludes my prepared statement. I would be pleased to answer any questions you or Members of the Subcommittee may have.

Mr. MICA. Thank you, Mr. Bowling, particularly for your research and statistical information.

What we will do is ask Mr. King now to give us his viewpoint from the administration and OPM, and then we will get back to you for questions.

Welcome again, Jim.

Mr. KING. Thank you. Thank you, Mr. Chairman and members of the subcommittee.

I would like to take this opportunity to formally introduce you to my colleague, Ms. Carol Okin, who is the Director of the Office of Merit Systems Oversight Effectiveness. She arrived in that job on February 19 this year, but she is a career SES employee.

Mr. MICA. Did she Ramspeck?

[Laughter.]

Mr. KING. No, she did not. She has 16 years of service with OPM. I would like to thank you for inviting me to discuss the Ramspeck Act, which under certain circumstances allows legislative and judicial branch employees to be appointed to the career civil service.

This legislation, as you know, was passed in 1940, and was sponsored by Representative Robert Ramspeck of Georgia, a longtime champion of the merit system. The Ramspeck Act, in addition to bringing a great many nonpolicy executive branch positions under the competitive civil service, also created a streamlined appointing system, a process by which the executive branch agencies could hire displaced legislative and judicial branch employees.

Both political parties have made use of this authority over the years. I would suggest, Mr. Chairman, if it is not nonpartisan, at least it is bipartisan. Although it was not used in large numbers, by our calculation there have been 564 Ramspeck appointments over the last 10 years, out of an estimated total of 200,000 noncompetitive appointments during the same period and a total of about 1 million appointments altogether in that time period.

In your letter of May 15, Mr. Chairman, you pointed that legislation to repeal Ramspeck Act has been introduced in both the House and the Senate. You asked the administration's position on this proposal, and what benefits or adverse consequences might come from its repeal. The administration is taking no position on the proposal.

The legislation was passed by the Congress, primarily for the benefit of the congressional employees, and we feel Congress is well-qualified to judge the program on its own merits. The major benefit of Ramspeck is that it has made it easier for several hundred people with valuable experience to enter the executive branch. Its major drawback is that it bypasses the merit system and may be subject to abuse.

Under present law a candidate must meet four requirements to qualify for Ramspeck appointment. The employee must have worked for Congress for at least 3 years, but that service need not be continuous. The employee must be separated involuntarily and

without prejudice from his or her congressional job, typically because the Member dies, resigns, or is defeated, and in some cases because of a reorganization within a committee or the Member's office staff.

The employee must pass a noncompetitive examination, which means that she or he must meet the basic qualifications for the position in question, and last, the employee must transfer to the executive branch within 1 year of separation from the legislative branch. There is no minimum time stated for the length of the last congressional appointment.

Agencies must also satisfy other civil service rules, which prohibit, among other things, discrimination for or against any candidate on the basis of political affiliation. Also, jobs may not be created specifically for Ramspeck candidates. Similar noncompetitive status is granted to former Federal employees who are returning to the civil service, disabled veterans, former Peace Corps volunteers, General Accounting Office employees, and many others.

The Ramspeck authority has been used sparingly compared to other noncompetitive appointing authorities. Let me just give you a quick example, Mr. Chairman. During fiscal year 1994, there were 6,541 noncompetitive reinstatements of former Federal employees and 12,468 appointments under the Veterans Readjustment Act.

By comparison, after the 1986 elections there were 116 Ramspeck appointments from a pool of more than 1,700 Hill employees who left their jobs. Preliminary figures indicate there have been about 120 Ramspeck appointments since last November's elections from a pool of over 2,500 congressional employees who became eligible.

GAO has reviewed more than 100 of the most recent appointments, we are told, and thus far has reported no direct violations of the Ramspeck law. Your letter, Mr. Chairman, asked for OPM's procedures for reviewing Ramspeck appointments and asked for an analysis of cases where Ramspeck appointments were revoked.

Under the existing law, OPM has the authority to review the qualifications of Ramspeck appointees. However, since the Civil Service Reform Act of 1978, we have delegated the approval of all noncompetitive appointments to the agencies. The agencies have relied on the Members of Congress to certify that Ramspeck appointees meet the requirements of congressional service.

Before each election, we at OPM have formally and informally reminded both congressional employees and agencies of the limits of the Ramspeck authority. Where we have received allegations of abuse, we have vigorously investigated them. We have ordered the termination of appointments that we find in violation of the law. Typically, reports of possible abuse have reached us after a career employee blows the whistle on a questionable appointment.

As you requested, Mr. Chairman, let me review the two most recent cases in which an appointment was revoked. On December 4, 1992, the Acting Director of OPM received a congressional inquiry about allegations of Ramspeck abuse at the Department of Interior. OPM began a review on December 14.

We learned that between January 1, 1992, and January 11, 1993, there had been 14 Ramspeck appointments at Interior. In review-

ing documents and conducting 27 interviews, we concluded that in two cases the Ramspeck authority had been used improperly. In each case the political appointee had resigned his or her job soon after the election, returned to congressional employment for just a few days, and then returned to the Department of Interior for a newly created career GS–15 appointment.

In neither case were the appointees' qualifications for the job at issue. In both cases, we concluded that a new job had been created specifically for an individual and the brief returns to congressional employment had been part of a pattern of events designed to manipulate the Ramspeck authority to achieve a preordained result.

Mr. Chairman, should you or the members of the subcommittee want further details on these cases, we would certainly make them available and make available to you the report that we issued at the time. I do not consider Ramspeck—well, what would I say?—a partisan political issue. Both parties have made use of it.

Several people at OPM previously worked for Republican Members of Congress, for example, and they came to us under Ramspeck appointments. Quite frankly, they carry out their duties in an entirely professional manner, including those in such areas as congressional relations and public affairs.

I believe that former congressional employees, once they accept career appointments in the executive branch, most often assume the role of executing policy, not making it. My own attitude is that if an employee performs his or her work, they should be treated with respect and dignity, whatever their political background or lack thereof.

Mr. Chairman, although I understand the rationale behind the Ramspeck Act, we at OPM have an institutional bias in favor of the merit system. We would like to see a streamlining of the competitive hiring process to reduce the need for special authorities such as Ramspeck. We believe that over the years the Ramspeck authority has served a useful purpose. But if the Congress feels it is no longer needed, we will work with you.

If the Congress feels that this needs reform or additional oversight, we will work with you on that, sir. Mr. Chairman, I would be glad to try to respond to any of your questions. I thank you.

[The prepared statement of Mr. King follows:]

PREPARED STATEMENT OF JAMES B. KING, DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT

Mr. Chairman and members of the Subcommittee:

Thank you for inviting me to discuss the Ramspeck Act, which under certain circumstances allows Legislative and Judicial Branch employees to be appointed to the career civil service.

This legislation was passed in 1940 and was sponsored by Representative Robert Ramspeck of Georgia, a longtime champion of the merit system.

The Ramspeck Act, in addition to bringing a great many non-policy Executive Branch positions under the competitive civil service, also created a streamlined appointing process by which Executive Branch agencies could hire displaced Legislative and Judicial Branch employees.

Both political parties have made use of this authority over the years, although not in large numbers. By our calculation, there have been only 564 Ramspeck appointments over the past ten years, out of an estimated total of two hundred thousand noncompetitive appointments during the same period.

In your letter of May 15, Mr. Chairman, you pointed out that legislation to repeal the Ramspeck Act has been introduced in the House and Senate. You asked the Ad-

ministration's position on this proposal, and what benefits or adverse consequences might come from repeal.

The Administration is taking no position on the proposal. The legislation was passed by Congress, primarily for the benefit of Congressional employees, and we feel Congress is well qualified to judge the program on its merits.

The major benefit of Ramspeck is that it has made it easier for several hundred people with valuable experience to enter the Executive Branch. Its major drawback is that it bypasses the merit system and may be subject to abuse.

Under present law, a candidate must meet four requirements to qualify for a Ramspeck appointment.

- The employee must have worked for Congress for at least three years, but that service need not be continuous;
- The employee must be separated involuntarily and without prejudice from his or her Congressional job, typically because a Member dies, resigns, or is defeated;
- The employee must pass a non-competitive examination, which means that she or he must meet the basic qualifications for the position in question; and
- The employee must transfer to the Executive Branch within one year of separation from the Legislative Branch; there is no minimum time stated for the length of the last Congressional appointment.

Agencies must also satisfy other civil service rules, which prohibit, among other things, discriminating for or against any candidate on the basis of political affiliation.

Also, jobs may not be created specifically for a Ramspeck candidate.

Similar noncompetitive status is granted to former Federal employees who are returning to the civil service, disabled veterans, former Peace Corps volunteers, and General Accounting Office employees.

The Ramspeck authority has been used sparingly, compared to other noncompetitive appointing authorities.

For example, during FY 1994 there were 6,541 noncompetitive reinstatements of former Federal employees and 12,468 appointments under the Veterans Readjustment Act.

By comparison, after the 1986 elections, there were 116 Ramspeck appointments from a pool of more than 1,700 Hill employees who lost their jobs. Preliminary figures indicate there have been about 120 Ramspeck appointments since last November's elections from a pool of well over 2,500 Congressional employees who became eligible.

GAO has reviewed more than one hundred of the most recent appointments and thus far has reported no violations of the Ramspeck law.

Your letter, Mr. Chairman, asked for OPM's procedures for reviewing Ramspeck appointments and asked for an analysis of cases where Ramspeck appointments were revoked.

Under the existing law, OPM has the authority to review the qualifications of Ramspeck appointees. However, since the Civil Service Reform Act of 1978, we have delegated the approval of all noncompetitive appointments to the agencies.

The agencies have relied on Members of Congress to certify that Ramspeck appointees meet the requirements of Congressional service.

Before each election, OPM has both formally and informally reminded both Congressional employees and agencies of the limits of the Ramspeck authority. When we have received allegations of abuse we have vigorously investigated them and we have ordered the termination of appointments that we find in violation of the law.

Typically, reports of possible abuse have reached us after a career employee blows the whistle on a questionable appointment.

As you requested, Mr. Chairman, let me review the two most recent cases in which an appointment was revoked.

On December 4, 1992, the Acting Director of OPM received a Congressional inquiry about allegations of Ramspeck abuse at the Department of the Interior. OPM began a review on December 14.

We learned that between January 1, 1992, and January 11, 1993, there had been 14 Ramspeck appointments at Interior.

After reviewing documents, and conducting 27 interviews, we concluded that in two cases the Ramspeck authority had been used improperly.

In each case, a political appointee had resigned his or her job soon after the election, returned to Congressional employment for just a few days, then returned to the Department of Interior, for a newly created, career, GS–15 appointment.

In neither case were the appointee's qualifications for the job at issue.

But in both cases we concluded that a new job had been created specifically for the individual and the brief returns to Congressional employment had been part of

a pattern of events designed to manipulate the Ramspeck authority to achieve a pre-ordained result.

Mr. Chairman, should you or Members of the Subcommittee want further details on these cases, I will make available the report we issued at the time.

I do not consider Ramspeck a political issue. Both parties have made use of it.

Several people at OPM previously worked for Republican Members of Congress, came to us under Ramspeck appointments and carry out their duties in an entirely professional manner, including those in such areas as Congressional Relations and public affairs.

I believe that former Congressional employees, once they accept career appointments in the Executive Branch, most often assume the role of executing policy, not making it.

My own attitude is that if an employee performs his or her work, they should be treated with respect and dignity, whatever their political background or lack thereof.

Mr. Chairman, although I understand the impulse behind the Ramspeck Act, we at OPM have an institutional bias in favor of the merit system.

We would like to see a streamlining of the competitive hiring process to reduce the need for special authorities such as Ramspeck.

We believe that, over the years, the Ramspeck authority has served a useful purpose.

But if Congress feels it is no longer needed, we will work with you. If Congress feels it needs reform or additional oversight, we will work with you on that.

Mr. Chairman, I will be glad to take your questions.

Mr. MICA. Thank you, Mr. King. Let me turn to Mr. Bowling for just a minute, and see if I can get a couple of these numbers correct. We want to make certain that we are dealing with the right set of numbers. We have 684. Is that the number that have requested and received Ramspeck certification?

Mr. BOWLING. We understand that that is correct. We actually obtained that number from your subcommittee, but we have no reason to doubt its veracity.

Mr. MICA. Let me ask you also, Schedule C positions, how many are there across the government, the Federal Government?

Mr. BOWLING. Well, I cannot give you an exact figure.

Mr. MICA. Is it 2,000 or something?

Mr. BOWLING. Yes. There are certainly a couple of thousand. Mr. King could find it.

Mr. MICA. Mr. King?

Mr. KING. I can get that for the record, but I would suggest the guesstimate is in the ball park.

Mr. MICA. I know we authorized them. I think that was one of the budget questions as to how many we allow this time, but I think it is somewhere in that range.

Then, you really don't need Ramspeck to go from the congressional service into a political appointment. That can just be a political appointment, a Schedule C position; that's correct?

Mr. BOWLING. That's correct.

Mr. MICA. The figures we had were somewhere around 146 or something who had been former congressional staffers who went into Schedule C positions. Then is it correct that on top of that we have 124 that have Ramspeck?

Mr. BOWLING. That is very close.

Mr. MICA. So, it is about 270. I could not determine from the figures that we had whether the 684 included that one hundred-plus, or not.

Mr. BOWLING. I believe they are.

Mr. MICA. Partially?

Mr. BOWLING. Yes, I believe they are.

Mr. MICA. I think our staff is saying partially. We do get up to about a thousand range between political appointees out of maybe the 2,000 or 2,500 that have left the Congress. I wanted to get some clarification on that.

Now, within the Federal Civil Service, once you Schedule C there is a mechanism after a certain period of time also to become permanent civil service career? Is that correct, Mr. King?

Mr. KING. Not to my knowledge, Mr. Chairman.

Mr. MICA. There isn't?

Mr. KING. It is a noncareer position, and it is kept at that.

Mr. BOWLING. You can compete for a position.

Mr. KING. You could compete for the position, but you compete as if you are outside of government.

Mr. MICA. There is absolutely no preference given to Schedule C?

Mr. KING. That is correct.

Mr. BOWLING. That is correct, yes.

Mr. MICA. OK. What about civil service individuals who are within the system, do they have preference in competing within the system for positions?

Mr. KING. Are you talking in an exempting context, or are you talking across the board?

Mr. MICA. Well, there are really two areas. One, I think you testified that there were 12,000 former civil servants or individuals who had some civil service experience. What I am trying to determine is if there is any comparison, you know, like if someone who has had some time in civil service, in fact was a civil servant.

Are you applying similar criteria? Did they have to have at least 3 years, or is it any period of time? Before, you said 12,000 of them came back into the system?

Mr. KING. Yes.

Mr. MICA. What is the criteria there?

Ms. OKIN. Reinstatement eligibles, if I may, sir, have to have 3 years of continuous service as a competitive employee of the U.S. Civil Service. If they leave government at that point, they have a reinstatement eligibility back into the civil service noncompetitively via reinstatement.

Mr. MICA. They have some eligibility, but they also have to compete?

Ms. OKIN. No. They have reinstatement eligibility that is noncompetitive after 3 years of continuous civil service.

Mr. MICA. That is after 3 years?

Ms. OKIN. Yes, that is correct.

Mr. MICA. OK. We had 12,000 of them?

Ms. OKIN. That is correct.

Mr. MICA. And they have to meet all the other criteria? You cannot create a position?

Mr. KING. That is correct. The personnel procedures are identical, Mr. Chairman.

Mr. MICA. What about the pay grade? Does there have to be some equivalence to what they left, or do they have to have some work history that justifies their qualifying for a position?

Mr. KING. When I first came in, I inquired on this when I was looking at exemptions. If I came in, Mr. Chairman, as a reception-

ist and I served three distinguished years in that role and I left, and I went on to, say, get a Ph.D. in nuclear physics, I could return and compete at a much more senior level on the exempt service basis and on a noncompetitive basis. On the basis now of my present talents, not my previous.

Mr. MICA. OK. In order to qualify for the reinstatement, you had to have the 3 years?

Mr. KING. The 3 years.

Ms. OKIN. That is correct, and you must be qualified for the position for which you are being considered.

Mr. MICA. OK. I am trying to determine if there are any similarities. You know, a public servant is a public servant. Now, granted, folks that work for us have the misfortune of being associated with the Congress, but they are still very dedicated and capable individuals who may, for all intents and purposes, be qualified for positions.

Again, I looked at the criteria you have, and I am trying to see if we can find some common ground or some revision to the law that would set a fairer standard of equity because they have some former civil service status.

Mr. Bowling, you pointed out one of the instances, and I do not know if it was reflected in something that Jim mentioned. I thought it was at Interior. It sounded like one of the positions, another position had just been created or was either opened for an unfair period of time. Is that duplicative of one of the ones that Mr. King talked about? Is that the same?

Mr. BOWLING. Were you speaking of the previous round?

Mr. KING. No. It was when we actually had dismissal.

Mr. BOWLING. OK. Yes.

Mr. KING. That was the action taken in 1993.

Mr. MICA. That is the same one?

Mr. BOWLING. No, those are different.

Mr. MICA. They are different ones.

Mr. BOWLING. They are different.

Mr. MICA. There are some instances. It does appear that we have some type of a review process, and of course you are getting the heat from Congress with the bipartisan nature of the administration and the Congress. There is some "check and balance" in the process, because we are keeping the pressure on to see if this is being abused. I know Senator Roth has also expressed some concern that there have been 139 Ramspecks in a 3-month period he looked at this year, as opposed to—was it 124?

Mr. BOWLING. 124.

Mr. MICA. Yes. Which was in an almost 12-month period last year. In 3 months, we equalled a year's appointments.

Mr. BOWLING. I think the periods actually overlap. Our period is a 16-month period ending April 30. I suspect one of the differences in the figures would be that we were looking at grade 9 and above, whereas it is possible that they were looking at the entire range and picked up a few extra.

Mr. MICA. My concern is that if we are going to revise the law, that we have some fairness and equity. Civil servants and congressional civil servants, we should treat them fairly. Then we have some review of the process. It appears that some of that is in place.

You also said that you have now deferred to the agencies, rather than internal review of OPM, Mr. King. Was that the case?

Mr. KING. Yes. Under the Civil Service Reform Act of 1978.

Mr. MICA. You said you delegated the authority to the agencies?

Mr. KING. Right.

Mr. MICA. Is that working out OK? It sounds like you are back in the process?

Mr. KING. We do oversight on a random basis. I think one of the things, Mr. Chairman, as you heard from the evidence presented by my colleague, is that roughly 85 percent of the Federal employees are outside of Washington. Over 90 percent of the Ramspeck are within Washington.

As we do our random checks on—well, up until just recently 2.25 million employees—the chance of running into 1 of the 500 that have been hired under Ramspeck is pretty remote. It would almost be like the sighting of an ivory-billed woodpecker. It is unlikely that we would run into them in the oversight, although it could happen.

I am just saying the mathematical possibilities are very remote. On the authority, though—I think that any reasonable manager would say that the authority for hiring belongs with the people who are accountable for getting the job done.

I think the idea of having some kind of a central control mechanism that is remote from the agency, it just would not work on the mechanics of it. If there are complaints of any kind—and we get all kinds, as you can imagine, Mr. Chairman—we respond at that time immediately.

We are very much built like a fire department. We respond instantly to any call on a fire, even though a lot of them are false alarms. We still do fire prevention work, and we do an awful lot of it.

That is what the oversight does on a regular basis, is work to prevent any kinds of issues, to reduce and make sure, though, all of the parties understand what the procedures are, whether it be in career or exempt service or anything else, so that one thing that cannot be pleaded is ignorance.

Mr. MICA. Well again, as we review this, I am trying to determine if any revisions to the law may be necessary. You heard my colleague who wants to repeal the law, and there is pressure on the Senate to repeal it. But, if we do not do that, how we can ensure that we build a legislative mousetrap, you know, to sort of catch the rats if there is problem, and protect the public interest.

Some of this is perception, as you well know. We have been through the congressional retirement thing. You would think that the national budget was balanced on the benefits obtained by the 300-and-some former Members of Congress, but that is not the case; it is the perception. We have to deal with public perception.

One of the things that also troubles me a bit in your testimony, Mr. Bowling, it sounds like most of the appointees are going to Commerce, most of these Ramspeck. Did you say that?

Mr. BOWLING. No. The HHS, Treasury, and Department of Interior are the three largest agencies.

Mr. MICA. HHS.

Mr. BOWLING. Yes.

Mr. MICA. OK. Commerce was getting some of them?

Mr. BOWLING. Yes, they do.

Mr. MICA. Some of the agencies that we are in the process of downsizing and cutting give the appearance that we are giving some preference or some opportunity to enter in even as we are axing on the other hand, and that can create some real problems and concerns. Again, as we move forward in the process, I would appreciate your suggestions for improving the legislation if it remains intact.

Mr. KING. Mr. Chairman, if it is a request for technical help, we would be more than glad to work with your staff.

Mr. MICA. We will call on you both for that, and I have some additional questions that we will submit to you, but I do want to be fair to my colleagues and not monopolize the time. Mr. Mascara.

Mr. MASCARA. Thank you, Mr. Chairman.

After listening to your testimony, it is obvious that you find nothing sinister about Ramspeck. In your study, are you satisfied that qualified people were hired for those positions?

Mr. KING. I think in the cases that we examined, we did not find any situation where the qualifications were in question, but we did find that very serious personnel procedures came up for question.

On the Ramspeck Act itself, I think that if it were a barn, it has no doors. If you are trying to insure the livestock within that barn, if I were to stay with an analogy, and you wanted to secure it, then I would suggest we take a look at some doors. On the other hand, it may have reached the stage where it is time to have a barn burning. That is really a decision others will make.

Mr. MASCARA. Thanks, Mr. King. I have no further questions.

Mr. MICA. Mr. Bass?

Mr. BASS. No questions, Mr. Chairman.

Mr. MICA. In conclusion, gentlemen, do you have any other comments or suggestions for improvements from what you have seen?

Mr. Bowling, you have analyzed this statistically. Are there any things that you would like to present now or in the future to the panel?

Mr. BOWLING. Yes. There is one recommendation that we have made in the past, and I think if the subcommittee decides to go with a revision to the law, as opposed to abolishing it, you might consider setting a minimum period for last continuous service as a provision in the law.

That would prevent the types of abuses that Mr. King presented earlier and that I also spoke to, where an employee whose 1-year period of grace has lapsed is able to go back up to the Hill, for a very short period of time, in a position where the member has already decided to retire or whatever, and then come back as a Ramspeck.

Now, that is probably not a use of the Ramspeck Act that would be in sync with the intent of the original drafters of the bill. I think you could probably eliminate most of the types of problems that we have seen or questionable actions that we have seen simply by making that revision.

Mr. MICA. Thank you. Mr. King, did you have anything at this time?

Mr. KING. Not right at this moment, but we would like very much to review the technical side on legislative, if you wish, and we would be back to the committee, if that was desired by the chair.

Mr. MICA. Thank you. Well, we appreciate both your preparation for today's hearing, your insight, and your willingness to work with us again. As you know, I have inherited this responsibility, and we try to do it together and see if we can do something meaningful. We do, of course, rely on the will of the majority of the House and the Senate in the process.

We thank you for your testimony. We may have additional questions to submit to you and will add your response to the record. We will work with you as we proceed on this issue.

Mr. KING. Thank you for including us.

Mr. MICA. The panel is dismissed.

I would like to call now our last panel. We always save the best for last. We have the Honorable Theresa Trujeque, Deputy Assistant Secretary, Human Resources, in the Department of Interior; we have Scott Gould, who is the Deputy Assistant Secretary of Finance and Management for the Department of Treasury; and we have Deputy Assistant Secretary Eugene Kinlow, who is Deputy Assistant Secretary for Personnel in the Department of Health and Human Services.

If you would all please rise for a moment and raise your right hand, I will swear you in.

[Witnesses sworn.]

Mr. MICA. Thank you. Let the record reflect that you answered in the affirmative. I would like to welcome you to our panel today, and also for the contributions that you make to the record in this hearing. We will call on you first, if we may, Theresa. We welcome you and look forward to your testimony.

STATEMENT OF THERESA TRUJEQUE, DEPUTY ASSISTANT SECRETARY, HUMAN RESOURCES, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY WOODROW HARPER, DIRECTOR OF PERSONNEL, DEPARTMENT OF THE INTERIOR; W. SCOTT GOULD, DEPUTY ASSISTANT SECRETARY, FINANCE AND MANAGEMENT, DEPARTMENT OF THE TREASURY; EUGENE KINLOW, DEPUTY ASSISTANT SECRETARY, PERSONNEL, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ms. TRUJEQUE. Thank you very much. Mr. Chairman, I appreciate the opportunity to provide the subcommittee information regarding the use of the Ramspeck authority at Interior.

In your letter of May 15, you pointed out that the General Accounting Office has reviewed 106 of the most recent Ramspeck appointments, and 80 percent of them were to positions involving general management responsibilities, many of them in offices of policy, legislative affairs, intergovernmental affairs, and public affairs. You also asked that Interior give the subcommittee information about its use of the Ramspeck authority for such positions.

As you know, Interior has a workforce of approximately 90,000 employees. Since the 1994 election, Interior has made 18 appointments using the Ramspeck authority, 12 of those appointments were to the kinds of positions identified by GAO. Under Ramspeck,

an agency may accept direct applications from eligibles and consider those applications for any job opening for which they qualify.

We believe the selection of former congressional employees for the kinds of positions identified in the GAO Report is consistent with the requirement under the act to match an individual's skills and abilities with the existing job openings he or she is qualified to fill. This is why many former congressional employees are selected for vacant positions in legislative affairs, public affairs, or the intergovernmental affairs career areas.

Mr. Chairman, this concludes my prepared remarks, and I will be pleased to answer any further questions.

Mr. MICA. Thank you very much. We will continue on now with the Honorable Scott Gould. You may proceed.

Mr. GOULD. Mr. Chairman and members of the subcommittee, I am Scott Gould, Deputy Assistant Secretary for Departmental Finance and Management, at Treasury. I am responsible for budget formulation; procurement; change management; and, relevant to this subcommittee's interest, personnel policy. I appreciate the opportunity to appear before you and to talk about Treasury's implementation of the Ramspeck Act.

I would like to address the following issues today: first, the Ramspeck Act's strengths and weaknesses; second, Treasury's overall approach to the use of this special authority; and, third, Treasury's system for managing the hiring process under the act, and of course to answer any questions for you.

I will skip over the prepared statement about the act itself. Mr. King has covered that quite well.

Allowing displaced congressional employees to be considered for positions in the career service, civil service, makes sense. The major benefit of Ramspeck is that it has made it easier for displaced congressional employees who have valuable government experience to enter the executive branch. These employees bring with them programmatic expertise developed over years of dealing with legislative, budget, and policy issues, as well as knowledge of the legislative process.

Ramspeck's major drawback is that it may bypass the competitive process and could be subject to abuse.

Treasury's guiding principle when it comes to hiring for career positions is that they be filled on the basis of merit, based on the consideration of the broadest possible range of candidates. We want the best people for the job—doing the work at Treasury.

The Office of Personnel Management does not routinely monitor Ramspeck appointments, but it investigates when abuses are alleged. I understand that a current GAO review of over 100 recent appointments has not revealed any violations of law. And as far back as our records show, there have not been any violations within Treasury, and we have taken positive action to ensure that there will be no violations in the future.

We have formal guidelines in place regarding appointments of displaced congressional employees. To get the largest pool of applicants, and thus increase the likelihood of qualified candidates for job vacancies, we advise our managers to announce all jobs through vacancy announcements or other forms of advertisement under

which competitive applicants, Ramspeck-eligible, and other non-competitive applicants are considered.

Our Ramspeck hiring guidance of November 1994 established a temporary review process to ensure we live up to our principle and that we are able to answer any questions concerning our hiring decisions. Before a displaced congressional employee is hired, a review panel examines documentation associated with the appointment to ensure compliance with hiring requirements for Ramspeck eligibles.

This documentation includes the following: the application package of the individual seeking appointment; the application packages of other highly ranked individuals considered for that same appointment; documentation of recruitment efforts to fill the position; a copy of the vacancy announcement, if applicable; benchmark rating criteria for use in the candidate selection; a copy of the position description; and, finally, certification that the position to be filled was neither scheduled for abolishment under the Federal Workforce Restructuring Act of 1994, nor created for the purpose of hiring a selectee.

This policy, the review panel, and the process will remain in effect until August 1, 1995, at which time we will decide whether to continue these additional requirements.

The Treasury complies with myriad personnel laws, rules, and regulations. Particular attention has been paid to complying with the criteria set forth in the Ramspeck Act.

The process that I just described resulted in the following hiring decisions at Treasury. Between November 1, 1994, and April 30, 1995, a total of 20 displaced congressional employees were hired by Treasury. Of the 20, 14 were hired using the Ramspeck authority. Of these, 8 positions, or 57 percent involved general management responsibilities. As a point of reference, there are approximately 160,000 employees at Treasury.

In summary, we chose to use our existing hiring system with an extra layer of review and reporting to ensure that the Department benefited from the availability of former congressional employees with relevant government, budgetary, and programmatic experience. We abided by the principles of the merit system in so doing.

The existing Ramspeck authority serves as one of many tools Treasury uses to bring highly qualified candidates on board. It has proven to be a valuable tool. Without this authority, we might lose the opportunity to immediately hire displaced congressional employees possessing the required skills for existing vacancies.

Thank you, and I will be happy to answer any questions you may have.

[The prepared statement of Mr. Gould follows:]

PREPARED STATEMENT OF W. SCOTT GOULD, DEPUTY ASSISTANT SECRETARY, FINANCE AND MANAGEMENT, DEPARTMENT OF THE TREASURY

Mr. Chairman and Members of the Subcommittee: I am Scott Gould, Deputy Assistant Secretary for Departmental Finance and Management for the Department of the Treasury. At Treasury, I am responsible for: budget formulation, procurement, change management (including National Performance Review initiatives, customer service, streamlining, and regulatory reform issues) and personnel policy. I appreciate the opportunity to appear before you to talk about Treasury's implementation of the Ramspeck Act.

I would like to address the following issues today:

- The Ramspeck Act—strengths and weaknesses
- Treasury's overall approach to the use of this special authority
- Treasury's system for managing the hiring process under the Act

And, of course, to answer any questions you may have.

THE RAMSPECK ACT

As you know, the Ramspeck Act was enacted in 1940 to provide an opportunity for displaced Congressional employees to be appointed to competitive service positions.

Allowing displaced Congressional employees to be considered for positions in the career service makes sense. The major benefit of Ramspeck is that it has made it easier for displaced Congressional employees who have valuable government experience to enter the Executive branch. These employees bring with them programmatic expertise developed over years of dealing with legislative, budget, and policy issues, as well as knowledge of the legislative process.

Ramspeck's major drawback is that it may bypass the competitive process and could be subject to abuse.

TREASURY'S OVERALL APPROACH TO THE USE OF THIS SPECIAL AUTHORITY

Treasury's guiding principle when it comes to hiring for career positions is that they be filled on the basis of merit, based on consideration of the broadest possible range of candidates. We want the best people for the job . . . doing the job at Treasury.

MANAGING THE HIRING PROCESS UNDER THE RAMSPECK ACT

The Office of Personnel Management does not routinely monitor Ramspeck appointments, but investigates when abuses are alleged. I understand that a current GAO review of over 100 recent appointments has not revealed any violations of law. And, as far back as our records show, there have not been any violations within Treasury, and we have taken positive action to ensure that there will be no violations in the future.

We have formal guidelines in place regarding appointments of displaced Congressional employees. To get the largest pool of applicants, and thus increase the likelihood of qualified candidates for job vacancies, we advise our managers to announce all jobs through vacancy announcements or other forms of advertisement under which competitive applicants, Ramspeck-eligible, and other noncompetitive applicants are considered.

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This documentation includes the following:

- the application package of the individual seeking appointment
- application packages of other highly ranked individuals considered for the appointment
- documentation of recruitment efforts to fill the position
- a copy of the vacancy announcement for the job
- benchmark rating criteria for use in candidate selection
- a copy of the position description
- certification that the position to be filled was neither scheduled for abolishment under the Federal Workforce Restructuring Act of 1994 nor created for the purpose of hiring the selectee

The November 1994 policy establishing the review panel and process will remain in effect until August 1, 1995, at which time we will decide whether to continue these additional requirements.

Treasury complies with myriad personnel laws, rules, and regulations. Particular attention has been paid to complying with the criteria set forth in the Ramspeck Act.

The process that I have just described resulted in the following hiring decisions. Between November 1, 1994, and April 30, 1995, a total of 20 displaced Congressional employees were hired by Treasury. Of the 20, 14 were hired using the Ramspeck authority. Of these, 8 positions (57%) involved general management responsibilities. As a point of reference, there are 160,000 FTEs at Treasury.

SUMMARY

In summary, we chose to use our existing hiring system with an extra layer of review and reporting to ensure that the Department benefitted from the availability of former Congressional employees with relevant government, budgetary and programmatic experience, and that we abided by the principles of the merit system. The existing Ramspeck authority serves as one of many tools Treasury uses to bring highly qualified candidates onboard. It has proven to be a valuable tool. Without this authority, we might loose the opportunity to immediately hire displaced Congressional employees possessing the required skills for existing vacancies.

Thank you. I would be happy to answer any questions you may have.

Mr. BASS [presiding]. Thank you very much, Mr. Gould. As you folks may notice, we have a vote underway. I would hope that we could complete the testimony of Mr. Kinlow in 5 or 6 minutes.

Mr. KINLOW. I will be happy to do so.

Mr. BASS. We will adjourn for a couple of votes, and then we will reconvene for questions. Mr. Kinlow?

Mr. KINLOW. Thank you, Mr. Chairman. I am Eugene Kinlow, Deputy Assistant Secretary for Personnel Administration at HHS. I am happy to appear. I would be happy to submit the full statement for the record, if I can summarize in about three bullets?

Mr. BASS. Certainly, without objection is it entered into the record.

Mr. KINLOW. Until recently we were a department of 130,000 until SSA departed about 2 months ago. Since January 1993, we have made 30 Ramspeck appointments. If we go back to the previous November's election, the number would be 33.

Using that as a background in HHS, typically the appointments are what we would call worker bee positions, grade 12 and less. They typically involved an additional layer of review. They typically are not made to what we would call Schedule C types of positions, and they are typically made pursuant to vacancy announcements under our merit promotion procedures.

We would be happy to answer any questions. Thank you.

[The prepared statement of Mr. Kinlow follows:]

PREPARED STATEMENT OF EUGENE KINLOW, DEPUTY ASSISTANT SECRETARY, PERSONNEL, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Thank you Mr. Chairman. I am Eugene Kinlow, Deputy Assistant Secretary for Personnel Administration at the Department of Health and Human Services. I am happy to testify this morning on HHS' experience with the Ramspeck Act.

We have been, until the recent transition of the Social Security Administration to independent agency status, a department of some 130,000 employees. Since January 1993, we have hired thousands of employees, but have made only 30 appointments using the Ramspeck authority. Approximately one third of those appointments were to beneficiary service positions in the social security administration. We have also used the authority to recruit for health specialty positions in the Public Health Service. Thus, while our experience with Ramspeck appointments is relatively limited, considering the size of the department, we have been able to successfully use the authority to fill positions that directly serve the American public.

In HHS, we have long recognized the sensitivity associated with Ramspeck appointments and for many years have required that appointments be made only with the advance approval of the Assistant Secretary for Personnel Administration. Our review and clearance procedures include not only ensuring that the technical aspects of the law are observed, but also specifically address many of the issues that have been raised by the General Accounting Office.

For example, we require consideration from a pool of applicants broader than just prospective Ramspeck appointees. This is often accomplished through a merit promotion vacancy announcement, which ensures that the selecting official fairly considers both current employees and candidates from other sources. Another impor-

tant part of our review is to ensure that the position being filled is based on a true organizational need and is not being created solely for the appointee.

In summary, our experience at HHS is that the Ramspeck Act provides a valuable recruiting option and a focused way to tap a talent pool of well-qualified potential employees. We also believe that we are administering the provisions of the act in a considered and responsible manner. We would, however, defer to OPM's governmentwide perspective in commenting on any proposed reforms to the law.

Thank you for the opportunity to testify. I would be happy to answer any questions you have.

Mr. BASS. Thank you very much, Mr. Kinlow, for your very brief testimony. Before we recess for a vote, I would like to take a moment to enter a statement by the Honorable Connie Morella into the record concerning the issue today.

If there is no objection, it is entered into the record.

[The prepared statement of Hon. Constance A. Morella follows:]

PREPARED STATEMENT OF HON. CONSTANCE A. MORELLA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

I would like to thank Chairman Mica for calling this hearing to examine the use and fairness of the Ramspeck Act. I would like to commend the Chairman for wanting to cast light, without prejudice, on an issue that can have an impact—a potential negative impact—on the lives of congressional and judicial staff in the future.

Mr. Chairman, like you and the other Members of the Subcommittee, I come to this hearing with an open mind. And as I see it, there are four questions that must be answered and weighed today. First, is the Ramspeck Act being used so the staffs of defeated Members can continue a particular political agenda in permanent positions within the executive branch? Second, does it circumvent the merit systems process that is in place in the executive branch? Third, does its premise apply in this era? And fourth, is it a flexible, hiring provision for Federal managers to use to fill vacancies with some of the best and brightest in Government? If we are to make an informed decision about the future of Ramspeck, all these questions must be answered.

The Ramspeck Act, named for its sponsor, Rep. Robert Ramspeck, allows a former congressional staffer to acquire competitive status for transfer to the competitive service. The congressional staffer must have worked for the Congress for at least three years and be involuntarily separated from his/her position. The staffer must qualify for the position and transfer to the competitive service within one year.

Clearly, it was not the intention of Mr. Ramspeck to see the executive branch infiltrated with former congressional employees, who were intent on thwarting the legislative process or who were bent on perpetuating the rebuffed agendas of defeated Members.

I believe that when Mr. Ramspeck conceived of this Act, he was probably thinking of the dynamic and volatile nature of congressional employment. He was probably thinking that an individual moves to Washington to serve a Member of Congress, giving up a home and, sometimes, a more permanent career. He was probably thinking that a number of good staffers leave Members' offices for more secure positions. He was probably thinking that in order to recruit and retain the best, there needed to be a "carrot."

But, does the Ramspeck Act's relevance translate to the conditions of 1990's? I would say that in most congressional offices Mr. Ramspeck's concerns are still very much alive. Nevertheless, volatile employment has become a way of life for many in the private sector and in the executive branch. And for workers in the private sector, relocating to take a job that has no real guarantee is commonplace. There are no "Ramspeck" opportunities for these individuals.

However, using certain provisions, executive branch employees can be non-competitively appointed to other positions. In addition, there are special emphasis programs that allow for non-competitive appointments. Employees who serve in the Office of the President or Vice President or on the White House staff can receive non-competitive appointments to career positions. And like Ramspeck, these provisions can provide Federal managers with an array of options for quickly staffing positions with highly-skilled individuals.

It is clear that Senator McCain and Congressman Goss, who have introduced bills to repeal Ramspeck, believe that the utility of Ramspeck has dissipated. Both gentlemen are distinguished Members of Congress, and it is with keen interest that I await Congressman Goss' testimony today.

But, one key stakeholder group is missing from our panel—the congressional employees. No doubt, they have an interest in this debate. We should somehow obtain their input on this issue.

Mr. Chairman, as we listen today, we must weigh facts and not passion. We must assess whether this provision helps agencies and employees or infringes on the opportunities of others and serves as a barrier to the execution of public mandate.

This concludes my remarks. I look forward to hearing from the witnesses.

Mr. BASS. At this time we will recess for our votes and we will reconvene as soon as the votes are complete. We have a series of votes coming up, and I am not quite sure exactly when we will be through.

Do you know?

Mr. MICA. Would you witnesses be agreeable to come back at 1 or maybe 20 or 30 minutes, that you might be able to catch some lunch?

Mr. Chairman, if that would be acceptable?

Mr. BASS. Yes.

Mr. MICA. We could recess?

Mr. BASS. Let's recess until 1.

Mr. MICA. Thank you.

[Whereupon, at 12:10 p.m., the subcommittee recessed, to reconvene at 1 p.m., the same day.]

Mr. BASS. The subcommittee will come to order. I appreciate your patience. We will resume our testimony from the three witnesses in our last panel today. I will begin by asking you a couple of questions, which all of you might be willing to address.

The first is about your procedures for congressional contact with respect to the Ramspeck employees. I will ask you, does your department have any particular procedures governing contact with Members of Congress and their staffs; if so, could you describe those procedures? Last, I would like to know why do you coordinate, if you do, these contacts through a congressional relations office?

Ms. TRUJEQUE. Me first? We do have a Congressional and Legislative Affairs Office that has all the contacts with the Hill. We think it is very important to coordinate it, so that the administration's position is put forth.

[The information referred to follows:]

After the 1994 elections, the Department received a number of applications from Congressional employees eligible for Civil Service placement under the provisions of P.L. 89–554. These applications were reviewed by the Office of Congressional and Legislative Affairs and then the resumes were referred to offices within the Department that had vacancies and needs commensurate with the qualifications of the applicants. The individual office were then responsible for interviewing the applicants and making appropriate hiring decisions.

Mr. KINLOW. If I understand the question, Mr. Chairman, we obviously, I think, like all other agencies, focus all of our contacts with the Hill through our congressional liaison or through our Office of the Assistant Secretary for Legislation. However, if we are talking about Ramspeck appointments specifically, we do not clear them through the Office of Congressional or Legislative Affairs.

Mr. BASS. OK. Thank you.

Mr. GOULD. I would like the opportunity to provide an answer to that for the record.

[The information referred to follows:]

Question 1. Can a Member call into any part of Treasury and get an immediate response from an employee regarding, for eample, a Congressioanl concern or public affairs issue?

Answer. There is no prohibition on any office in Treasury from directly answering questions from Members of Congress, and, in fact, some offices, such as the Budget Office, have long-standing relationships with several Congressional committees and subcommittees.

As a practice, Treasury's offices and bureaus work with the Office of the Assistant Secretary for Legislative Affairs or their bureau legislative affairs office when responding to Congressional inquiries. This practice ensures that information being transmitted to the Congress by Treasury is timely, accurate, and consistent with Treasury policy. Because of Treasury's size and wide array of issues, this process of cross checking is necessary to prevent potential conflicting information from being sent to the Congress.

Question 2. What types of positions were filled through Ramspeck authority during the period stated in your testimony and which of those are considered general management positions?

Answer. The following 14 positions were filled under Ramspeck authority between November 1, 1994, and April 30, 1995. General management positions are highlighted in bold print.

3 Secretaries—GS 318 8, 9 & OC 318 6
3 Congressional Liaison Specialists—GS 30112(2),14
2 Legislative Analysis Officers—GS 301 14(2)
1 Congressional Contact Specialist—GS 30112
1 Executive Secretariat—GS 301 12
1 Economist—GS 110 15
1 Financial Economist—GS 110 11
1 Policy Advisor—GS 301 12
1 Program Management Specialist—GS 301 11

Mr. BASS. OK. Very well, thank you.

I guess my second question deals with the same issue but with public affairs and media contacts. Does your department have procedures established governing contact with the media and public affairs events—now, this is all in the context of the Ramspeck—for example, speeches and television appearances. Could you describe these procedures? Again, why does your agency coordinate those contacts through a public affairs office, if they do?

Ms. TRUJEQUE. This is in relation to the Ramspeck Act?

Mr. BASS. That is affirmative.

Ms. TRUJEQUE. I will have to get you that answer in writing.

Mr. GOULD. Those types of contact for Treasury are normally handled through an executive secretary format that is well-established in the building. There is a clear process for memorandum, action-forcing event, request to contact the media. The subject matter is generally discussed, talking points developed for the principals. It is a way for the building to vet contact with the media on this potentially sensitive issue before it happens.

Mr. BASS. OK.

Mr. KINLOW. With respect to Ramspeck actions, we do not involve the Office of Public Affairs in the Department of Health and Human Services.

Mr. BASS. Let me ask you all three one very general question. I think, Mr. Gould, you testified concerning the advantages of the Ramspeck Act, Ramspeck employees, but your testimony basically focused on the advantages that the Ramspeck Act accrues to the employees, rather than to the department.

As you well know, we have the Schedule C process and there is the civil service process. We all have heard considerable testimony

today about the history of the reasons for having the Ramspeck provision of the Ramspeck Act.

What advantage, if any, accrues to your agency in having Capitol Hill employees take positions in your agency without the benefit of competition, that you may or may not want to have in your agency outside of the normal civil service procedures? What is the real advantage to your agency?

Mr. GOULD. Well, it is very straightforward and it is very significant. Congress is one of our important stakeholders. The department deals with you frequently. What you have is a group of people who, because of long service and because of their exposure to the legislative, budgetary, and programmatic issues, are often familiar with the types of issues that we deal with at Treasury all the time, between Treasury and the Hill.

There is an automatic benefit to us in terms of understanding how the Hill works and a familiarity with the issues from a policy standpoint that they bring to the table.

Mr. BASS. Don't you think that they ought to compete, though, with other people that have equivalent qualifications whom you might prefer to hire?

Mr. GOULD. One of the points that I tried to make in my testimony was that we had encouraged, to the maximum extent possible, competition among groups of people for these jobs. Even in the instance where we had a Ramspeck hire, in each one of those cases we had other Ramspeck-eligible or former congressional employees in the running at the same time. There was a competitive process at work, even in that limited sense.

Mr. KINLOW. Well, I do not want to appear too naive in answering the question, Mr. Chairman.

Mr. BASS. Let me preface by saying I do not consider this debate today to be a partisan debate in any form or fashion. Folks may not have been here early on, but I think that the history has shown that it has worked both ways. I think Mr. Moran's point about dealing with the issue of administration Schedule C appointees burrowing into the system is of equal concern.

The question is, can you do your job? Is your ability to do your job effectively and successfully improved by this process, this unusual process, which does not exist in the executive branch but only in the legislative branch?

Mr. KINLOW. My experience is that the people we hire in many cases are uniquely qualified, because of the experience that they happen to have gotten here. They could not get that same kind of experience anywhere else.

The second point I wanted to make is that the actual final approval of any Ramspeck hire in the Department of Health and Human Services is exercised by a career bureaucrat. If there is any indication that that person is not highly qualified for that job, that person just does not get it.

Ms. TRUJEQUE. I would say that what they bring to the department, they are uniquely qualified and they are highly skilled employees, I think, that help us carry out the mission of the department. Again, like HHS, the approval process for the Interior for the Ramspeck appointments is by our director of personnel, who is a career employee.

Mr. BASS. Do you scrutinize Ramspeck appointments as rigidly as you do, for example, Schedule C employees seeking to get into the civil service system?

Ms. TRUJEQUE. Could I have my Director of Personnel, who is with me, respond to that question on the career service?

Mr. BASS. Certainly. Is that OK?

Ms. TRUJEQUE. Woodrow Hopper.

Mr. BASS. Please identify yourself?

Mr. HOPPER. I am Woodrow Hopper, the Director of Personnel for the Department of the Interior.

Mr. BASS. Could you stand, please?

Mr. HOPPER. Certainly.

[Witness sworn.]

Mr. BASS. Please proceed.

Mr. HOPPER. OK. If I understand the question, it is, do we scrutinize the Ramspecks as closely as we do Schedule C's?

Mr. BASS. C's moving into the permanent civil service workforce. In other words, Ramspecks coming in for permanent civil service, Schedule C's going in, is the process the same?

Mr. HOPPER. A Schedule C moving in to the civil service would normally move in through a competitive process; a Ramspeck would be coming in under the Ramspeck authority, which is a different authority. In essence, there would be some difference in the examining of the two, but they both would have to meet basic qualifications.

Mr. BASS. OK. Any other comments on that question?

Mr. KINLOW. I would agree with that. I think in both cases the review is rather rigorous and somewhat extraordinary. In the case of appointments under the Ramspeck Act, I think there is a redundant review in every case. In terms of rigor, I would say that both of these instances require a more rigorous process than just a normal merit promotion action.

Mr. GOULD. Mr. Chairman, we really turn to our career civil service personnel and personnel specialists and ask them, engage them in the process of developing the extra level of oversight that we provided for the Ramspeck appointees. One of the things we were trying to balance is the value of getting people with these specialized skills that I spoke about a minute ago.

The potential negative effects, in terms of morale that have also been identified here today, the sense that "Hey, this guy got a leg up on me," or "This person got an opportunity that I have been waiting for, for many years for this kind of a job."

We really pushed it back to the career side and said, "Help us understand how to balance these two competing ends," and they worked with us to develop an extra level of scrutiny that is in place now at Treasury.

Mr. BASS. I have no further questions. Do any of you three have any further testimony you wish to add at this time?

[No response.]

Mr. BASS. If not, I would like to thank you very much for appearing here today. We appreciate your testimony.

That completes our subcommittee hearing for today. The hearing is adjourned.

[Whereupon, at 1:15 p.m., the subcommittee was adjourned, subject to the call of the Chair.]

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