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5 § 5301. GOVERNMENT ORGANIZATION

SUBCHAPTER I—PAY COMPARABILITY SYSTEM

§ 5301. Policy

(a) It is the policy of Congress that Federal pay fixing for employees under statutory pay systems be based on the principles that—

- (1) there be equal pay for substantially equal work;
- (2) pay distinctions be maintained in keeping with work and performance distinctions;
- (3) Federal pay rates be comparable with private enterprise pay rates for the same levels of work; and
- (4) pay levels for the statutory pay systems be interrelated.

(b) The pay rates of each statutory pay system shall be fixed and adjusted in accordance with the principles under subsection (a) of this section and the provisions of sections 5305, 5306, and 5308 of this title.

(c) For the purpose of this subchapter, "statutory pay system" means a pay system under—

- (1) subchapter III of this chapter, relating to the General Schedule;
- (2) subchapter IV of chapter 14 of title 22, relating to the Foreign Service of the United States; or
- (3) chapter 73 of title 38, relating to the Department of Medicine and Surgery, Veterans' Administration.

As amended Pub.L. 91-656, § 2(a), Jan. 8, 1971, 84 Stat. 1946.

1971 Amendment. Pub.L. 91-656 designated provisions of first sentence as subsec. (a), incorporating former cl. (1) in cls. (1) and (2), and former cl. (2) in cl. (3), and inserted "for employees under statutory pay systems" following introductory words "Federal pay fixing"; substituted subsec. (b) reading "The pay rates of each statutory pay system shall be fixed and adjusted in accordance with the principles under subsection (a) of this section and the provisions of sections 5305, 5306, and 5308 of this title" for former second sentence providing "Pay levels for the several Federal statutory pay systems shall be interrelated, and pay levels shall be set and adjusted in accordance with these principles"; and added subsec. (c).

Short Title. Section 1 of Pub.L. 91-656 provided that: "This Act [which enacted sections 5305-5308 and 5947 of this title, amended sections 5108(a), (c), 5301, and 5942 of this title and section 410(b) (1) of Title 39, repealed section 5302 of this title, and enacted provisions set out as notes under sections 5305 and 5942 of this title and section 60a of Title 2, and section 410 of Title 39] may be cited as the 'Federal Pay Comparability Act of 1970'."

Implementation of Salary Comparability Policy in 1968 and 1969. Adjustment by President of rates of basic pay to implement salary comparability policy in 1968 and 1969, see section 212 of Pub.L. 90-206, set out as a note under section 5304 of this title.

Legislative History. For legislative history and purpose of Pub.L. 91-656, see 1970 U.S. Code Cong. and Adm. News, p. 5915.

Index to Notes

Generally 1
Construction with other Laws 194
Injunction 2
Investigators 3

1/2. Construction with other laws
Provision of Economic Stabilization Act of 1970, section 1904 note of Title 12, relating to comparability adjustments in wages to federal employees did not preclude October, 1972, pay adjustments scheduled under this chapter. National Treasury Emp. Union v. Nixon, C.A.D.C. 1974, 492 F.2d 587.

In view of plain meaning of amendments to Economic Stabilization Act of 1970; section 1904 note of Title 12, asserting that federal comparability wage adjustments should be no greater than the guidelines established for wage adjustments in private sector, resort could not be had to legislative history of amendments which plaintiffs claim did not supersede this subchapter. National Ass'n of Internal Revenue Emp. v. Nixon, D.C. D.C.1972, 349 F.Supp. 13.

1. Generally

Generally, government employees are entitled only to salaries of positions to which they are appointed and in which they serve. Urbina v. U. S., 1970, 428 F.2d 1280, 192 Ct.Cl. 875.

Federal district court lacked jurisdiction over President of the United States either officially or personally for his acts in performance of duties under this subchapter and the Economic Stabilization Act, section 1904 note of Title 12, since President's performance of duties depended upon construction and applicability of the statutes and it would be improper to oversee or interfere with performance of that duty. National Ass'n of Internal Revenue Emp. v. Nixon, D.C.D.C.1972, 349 F.Supp. 13.

2. Injunction

Plaintiff federal employees, who sought preliminary injunctive relief to require President to adjust rate of federal employees in accordance with principles of comparability set forth in this subchapter notwithstanding the Economic Stabilization Act, section 1904 note of Title 12, failed to show irreparable injury because mere monetary loss would not constitute the necessary irreparable injury. National Ass'n of Internal Revenue Emp. v. Nixon, D.C.D.C.1972, 349 F.Supp. 13.

Federal employees, seeking preliminary injunction to require President to adjust wages of federal employees in accordance with this subchapter notwithstanding the amendments to the Economic Stabilization Act, section 1904 note of Title 12, failed to establish that the issuance of preliminary injunction would be consistent with the public interest. Id.

3. Investigators

Decision that investigators for Immigration and Naturalization Service were assigned to Chinese Fraud Unit at San Francisco District Office were prop-

GOVERNMENT ORGANIZ

erly classifiable as general investigators, for subsec. GS-11, rather than GS-12, was not in violation of this section providing that Civil Service employees must receive equal pay 1972, 488 F. U. S. Civl

§ 5302. Repealed. Pub.L. 91-656, § 2(c) Stat. 1946

Section, Pub.L. 89-554, Sept. 8, 1966, 80 Stat. 458, provided for annual reports on pay compa section 5302

§ 5303. Higher minimum rates; President

(a) When the President finds that the pay for one or more occupations in one or more substantially above the pay rates of statutory pay; significantly the Government's recruitment or individuals in positions paid under—

- (1) section 5332 of this title;
- (2) Repealed. Pub.L. 91-375, § 6(c) Stat. 776;

(3) the pay scales for physicians, dentists, department of Medicine and Surgery, Veterans' chapter 73 of title 38; or

(4) sections 867 and 870 of title 22; he may establish for the areas or locations, basic pay for one or more grades or levels, or classes, or subdivisions thereof, and may make in all step rates of the pay range for each such a minimum rate so established may not exceed prescribed by statute for the grade or level. To exercise the authority conferred on the Civil Service Commission or, in the case of individuals, by such other agency as he may designate.

[See main volume for text of (b)]

(d) The rate of basic pay established under by an individual immediately before a statutory effective prior to, on, or after the date of enactment of pay schedule applicable to such individual of in subsection (a) of this section, shall be initial the effective date of the statutory increase, unless prescribed by the President or by such agency as the As amended Pub.L. 90-206, Title II, § 207, De Pub.L. 91-375, § 6(c) (10), Aug. 12, 1970, 84

1970 Amendment. Subsec. (a). Pub. L. 91-375 repealed cl. (2) making positions paid under provisions of part III of title 39 relating to employees in the postal field service subject to higher minimum rates established by the President.

1967 Amendment. Subsec. (a). Pub.L. 90-206, § 207(a), substituted "maximum pay rate" for "seventh pay rate".

Subsec. (d). Pub.L. 90-206, § 207(b), added provisions that permitted an initial adjustment to be made to statutory increases which become effective prior to, on, or after the date of enactment of the statute.

Effective Date of 1970 Amendment. Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register.

ter, see section 39, Postal Service Act of 1945, 58 Stat. 208 effective 1945. (a) (1) of 1945 under section 5304 of this title. Legislative history and 1967 U.S. Code Cong. Code Cong.

§ 5304. Presidential policies and regulation. The functions, duties, and regulations of the Civil Service Commission with respect to this sub-

erly classifiable as general investigators, for substantially equal work. White v. GS-11, rather than GS-12, was not in violation of this section providing that Civil Service employees must receive equal pay U. S. Civil Service Commission, C.A. Cal. 1972, 488 F.2d 1357.

§ 5302. Repealed. Pub.L. 91-656, § 2(b) (1), Jan. 8, 1971, 84 Stat. 1946

Section, Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 458, provided for annual reports on pay comparability, and is now covered by section 5305 of this title.

§ 5303. Higher minimum rates; Presidential authority

(a) When the President finds that the pay rates in private enterprise for one or more occupations in one or more areas or locations are so substantially above the pay rates of statutory pay schedules as to handicap significantly the Government's recruitment or retention of well-qualified individuals in positions paid under—

- (1) section 5332 of this title;
- (2) Repealed. Pub.L. 91-375, § 6(c) (10), Aug. 12, 1970, 84 Stat. 776;
- (3) the pay scales for physicians, dentists, and nurses in the Department of Medicine and Surgery, Veterans' Administration, under chapter 73 of title 38; or
- (4) sections 867 and 870 of title 22;

he may establish for the areas or locations higher minimum rates of basic pay for one or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all step rates of the pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum pay rate prescribed by statute for the grade or level. The President may authorize the exercise of the authority conferred on him by this section by the Civil Service Commission or, in the case of individuals not subject to the provisions of this title governing appointment in the competitive service, by such other agency as he may designate.

[See main volume for text of (b) and (c)]

(d) The rate of basic pay established under this section and received by an individual immediately before a statutory increase, which becomes effective prior to, on, or after the date of enactment of the statute, in the pay schedule applicable to such individual of any pay system specified in subsection (a) of this section, shall be initially adjusted, effective on the effective date of the statutory increase, under conversion rules prescribed by the President or by such agency as the President may designate. As amended Pub.L. 90-206, Title II, § 207, Dec. 16, 1967, 81 Stat. 631; Pub.L. 91-375, § 6(c) (10), Aug. 12, 1970, 84 Stat. 776.

1970 Amendment. Subsec. (a). Pub. L. 91-375 repealed cl. (2) making positions paid under provisions of part III of title 39 relating to employees in the postal field service subject to higher minimum rates established by the President.

1967 Amendment. Subsec. (a). Pub.L. 90-206, § 207(a), substituted "maximum pay rate" for "seventh pay rate".

Subsec. (d). Pub.L. 90-206, § 207(b), added provisions that permitted an initial adjustment to be made to statutory increases which become effective prior to, on, or after the date of enactment of the statute.

Effective Date of 1970 Amendment. Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub.L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

Effective Date of 1967 Amendment. Amendment by section 207 of Pub.L. 90-206 effective Dec. 16, 1967, see section 220 (a) (1) of Pub.L. 90-206, set out as a note under section 3110 of this title.

Implementation of Salary Comparability Policy in 1968 and 1969. Adjustment by President of rates of basic pay to implement salary comparability policy in 1968 and 1969, see section 212 of Pub.L. 90-206, set out as a note under section 5304 of this title.

Legislative History. For legislative history and purpose of Pub.L. 90-206, see 1967 U.S. Code Cong. and Adm. News, p. 2253. See, also, Pub.L. 91-375, 1970 U.S. Code Cong. and Adm. News, p. 3649.

§ 5304. Presidential policies and regulations

The functions, duties, and regulations of the agencies and the Civil Service Commission with respect to this subchapter, subchapter III of



5 § 5304 GOVERNMENT ORGANIZATION

this chapter, chapter 51 of this title, chapter 14 of title 22, and the provisions of chapter 73 of title 38 relating to employees in the Department of Medicine and Surgery, Veterans' Administration, are subject to such policies and regulations as the President may prescribe. Among other things, the policies and regulations of the President may provide for—

[See main volume for text of (1) to (5)]

As amended Pub.L. 91-375, § 6(c) (11), Aug. 12, 1970, 84 Stat. 776.

1970 Amendment. Pub. L. 91-375 struck out provisions making functions, duties and regulations of the agencies and the Civil Service Commission with respect to the provisions of part III of title 39 relating to employees in the postal field service subject to Presidential policies and regulations.

Effective Date of 1970 Amendment. Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15 (a) of Pub. L. 91-375, set out as a note preceding section 101 of title 39, Postal Service.

Office of Management and Budget. The Bureau of the Budget was designated as the Office of Management and Budget and the offices of Director of the Bureau of the Budget, Deputy Director of the Bureau of the Budget, and Assistant Directors of the Bureau of the Budget were designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively. Records, property, personnel, and funds of the Bureau of the Budget were transferred to the Office of Management and Budget. See Part I of Reorganization Plan 2 of 1970, set out in the Appendix to this title.

Presidential Adjustment of Pay Rates to Implement Salary Comparability Policy in 1968 and 1969. Section 212 of Pub.L. 90-206, Title II, Dec. 18, 1967, 81 Stat. 634, provided that: "In order to complete the implementation of the policy of the Congress set forth in paragraph (2) of section 5301 of title 5, United States Code [section 5301 of this title], the President, after seeking the views of such employee organizations as he considers appropriate and in such manner as he may provide, shall—

"(1) effective on the first day of the first pay period beginning on or after July 1, 1968, adjust the rates of basic pay, basic compensation, and salary, as in effect by reason of the enactment of the provisions of this title [see Short Title note under section 5332 of this title] other than this section and sections 205, 210, 213, 214, 215, and 219—

"(A) by amounts equal, as nearly as may be practicable, to one-half of the amounts by which such rates are exceeded by rates of pay paid for the same levels of work in private enterprise as determined on the basis of the 1967 annual survey conducted by the Bureau of Labor Statistics in accordance with the provisions of section 5302 of title 5, United States Code [section 5302 of this title], or

"(B) by 3 per centum, whichever is greater; and

"(2) effective on the first day of the first pay period beginning on or after July 1, 1969, adjust the rates he has established under subparagraph (1) of this section, and the rates established by Postal Field Service Schedule II, and Rural Carrier Schedule II (contained in the amendments made by subsections (a) and (b) of section 205 [to sections 3542 and 3543 of Title 39]), by amounts equal, as nearly as may be practicable, to the amounts by which such rates are exceeded by rates of pay paid for the same levels of work in private enterprise as determined on the basis of the 1968 annual survey conducted by the Bureau of Labor Statistics in accordance with the provisions of section 5302 of title 5, United States Code [section 5302 of this title].

Adjustments made by the President under this section shall have the force and effect of statute. The rates of pay of personnel subject to sections 210, 213 (except subsections (d) and (e)), and 214 of this title [see Short Title note under section 5332 of this title], and any minimum or maximum rate, limitation, or allowance applicable to any such personnel, shall be adjusted, by amounts which are equal, insofar as practicable and with such exceptions as may be necessary to provide for appropriate relationships between positions, to the amounts of the adjustments made by the President under subparagraphs (1) and (2) of this section, by the following authorities—

"(i) the President pro tempore of the Senate, with respect to the United States Senate;

"(ii) the Speaker of the House of Representatives with respect to the United States House of Representatives;

"(iii) the Architect of the Capitol, with respect to the Office of the Architect of the Capitol;

"(iv) the Director of the Administrative Office of the United States Courts, with respect to the judicial branch of the Government; and

"(v) the Secretary of Agriculture, with respect to persons employed by the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) [section 590h (b) of Title 16].

Such adjustments shall be made in such manner as the appropriate authority concerned deems advisable and shall have the force and effect of statute. Nothing in this section shall impair any authority pursuant to which rates of pay may be fixed by administrative action."

Section 212 of Pub.L. 90-206 effective Dec. 18, 1967, see section 220(a) (1) of Pub.L. 90-206, set out as a note under section 3110 of this title.

Legislative History. For legislative history and purpose of Pub.L. 91-375, see 1970 U.S. Code Cong. and Adm. News, p. 3649.

EXECUTIVE ORDER NO. 11073

Ex.Ord.No.11073, Jan. 7, 1963, 28 F.R. 203, as amended by Ex.Ord.No.11173, Aug. 20, 1964, 29 F.R. 11999, set out as a note under this section, which provided for federal salary administration, was superseded by Ex.Ord.No.11721, May 23, 1973, 38 F.R. 13717, set out as a note under this section.

By virtue of by sections 5304 United States of this title). United States. follows:

PART I—

Section 101.

ected:
(a) To make ties in chapter Code [this cha pay systems to chapter [section] to secure quality of Fed for an effective service;

(b) To use th tivate employe at their full c fair treatment ployees subject tems; and

(c) To take ensure that the -value for its ex] that every empl is warranted by ments and the - which he perfor Sec. 102. As term "agency" -it by section f States Code [se

PART II—A

Section 201. J Management au -man, United Sta sion, are hereby dent's agent un United States C title).

Sec. 202. The playing person pay systems (as of title 5, United (c) of this title formation and respect to the s plicable to his a ed by the Pres out the provis title 5, United l of this title).

Sec. 203. The designated unde 5, United States this title), to p sary to convert salaries of offic new pay rates a utory pay syste title 5, United s of this title);

(i) General Se Commission;

(ii) Foreign S partment of Stat

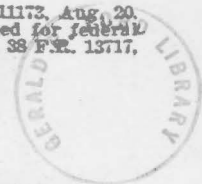
(iii) Schedules Medicine and Su ministration—the tion.

PART III—S

RECRU

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Section 301(a). mission is here cise—



EXECUTIVE ORDER NO. 11721

May 23, 1973, 38 F.R. 13717

FEDERAL PAY ADMINISTRATION

By virtue of the authority vested in me by sections 5303, 5304, and 5305 of title 5, United States Code [sections 5303-5305 of this title], and as President of the United States, it is hereby ordered as follows:

(1) the authority of the President under section 5303(a) and (b) of title 5, United States Code [section 5303(a) and (b) of this title], to establish or revise higher minimum rates of pay, and

(2) the authority of the President under section 5303(d) of title 5, United States Code [section 5303(d) of this title], to prescribe conversion rules for adjusting an employee's pay.

(b) Before exercising these functions for positions compensated under the Foreign Service schedules or under the schedules for physicians, dentists, and nurses in the Department of Medicine and Surgery of the Veterans Administration, the Civil Service Commission shall consult with the head of the agency concerned.

Sec. 302(a). Before establishing higher rates of pay under section 5303(a) of title 5, United States Code [section 5303(a) of this title], the Civil Service Commission shall consider whether—

(1) an adequate recruiting program has been implemented and that attention has been given to the improvement of working conditions and to other relevant factors; and

(2) adequate recruitment or retention cannot be achieved by alternate means such as job redesign or skills improvement training programs.

(b) The Civil Service Commission may not establish higher rates for all positions in a statutory grade or level in a given area unless the Commission determines that adequate recruitment and retention cannot be achieved by establishment of higher rates for certain occupations or groups of occupations.

Sec. 303. The Civil Service Commission shall review, at least annually, higher rates of pay established under section 5303(a) of title 5, United States Code [section 5303(a) of this title], and shall continue, abolish, or revise the higher rates in consideration of the facts and pertinent criteria under the law and this order.

Sec. 304. An employee's basic pay rate may not be reduced solely because of a revision to, or cancellation of, the higher rates established under section 5303(a) of title 5, United States Code [section 5303(a) of this title].

PART IV—GENERAL SCHEDULE SYSTEM

Section 401(a). Heads of agencies shall ensure that agency managers and supervisors at all levels use the position classification plan of the General Schedule system as a tool for effective and efficient human resources utilization.

(b) The Civil Service Commission shall revoke the position classification authority of an agency under the General Schedule whenever the Commission finds in connection with its regular evaluation, or otherwise, that an agency has failed to classify its positions in accordance with or consistently with applicable standards.

Sec. 402. The Civil Service Commission shall issue such regulations and standards as may be necessary to ensure that only those employees whose work is of an acceptable level of competence receive periodic step-increases under the provisions of section 5335 of title 5, United States Code [section 5335 of this title].

Sec. 403(a). The Civil Service Commission shall require each agency employing personnel under the General Schedule to

PART I—GENERAL POLICY

Section 101. Heads of agencies are directed:

(a) To make full use of the authorities in chapter 53 of title 5, United States Code [this chapter], and the statutory pay systems to which section 5301 of that chapter [section 5301 of this title], refers to secure and maintain the high quality of Federal personnel necessary for an effective and efficient Government service;

(b) To use these authorities to (1) motivate employees to perform continuously at their full capacity, and (2) provide fair treatment in pay matters of all employees subject to the statutory pay systems; and

(c) To take appropriate measures to ensure that the Government receives full value for its expenditures for salaries and that every employee is paid no more than is warranted by the nature of his assignments and the degree of competence with which he performs them.

Sec. 102. As used in this order, the term "agency" has the meaning given to it by section 5102(a) of title 5, United States Code [section 5102(a) of this title].

PART II—ANNUAL PAY REVIEW

Section 201. The Director, Office of Management and Budget, and the Chairman, United States Civil Service Commission, are hereby designated as the President's agent under section 5305 of title 5, United States Code [section 5305 of this title].

Sec. 202. The head of each agency employing personnel under the statutory pay systems (as defined in section 5301(c) of title 5, United States Code [section 5301(c) of this title]) shall provide such information and technical assistance with respect to the statutory pay systems applicable to his agency as may be requested by the President's agent in carrying out the provisions of section 5305 of title 5, United States Code [section 5305 of this title].

Sec. 203. The following agencies are designated under section 5305(q) of title 5, United States Code [section 5305(q) of this title], to prescribe the rules necessary to convert the rates of basic pay or salaries of officers and employees to the new pay rates as adjusted for each statutory pay system under section 5305 of title 5, United States Code [section 5305 of this title]:

(i) General Schedule—the Civil Service Commission;

(ii) Foreign Service schedules—the Department of State;

(iii) Schedules for the Department of Medicine and Surgery of the Veterans Administration—the Veterans Administration.

PART III—SPECIAL RATES FOR RECRUITMENT AND RETENTION

Section 301(a). The Civil Service Commission is hereby designated to exercise—

chapter 14 of title 22, and the provisions relating to employees in the Department Administration, are subject to such extent as the President may provide for—

(11), Aug. 12, 1970, 84 Stat. 776.

(2) effective on the first day of the first pay period beginning on or after July 1, 1969, adjust the rates he has established under subparagraph (1) of this section, and the rates established by Postal Field Service Schedule 11, and Rural Carrier Schedule 11 (contained in the amendments made by subsections (a) and (b) of section 205 [to sections 3542 and 3543 of Title 39]), by amounts equal, as nearly as may be practicable, to the amounts by which such rates are exceeded by rates of pay paid for the same levels of work in private enterprise as determined on the basis of the 1968 annual survey conducted by the Bureau of Labor Statistics in accordance with the provisions of section 5302 of title 5, United States Code [section 5302 of this title].

Adjustments made by the President under this section shall have the force and effect of statute. The rates of pay of personnel subject to sections 210, 213 (except subsections (d) and (e)), and 214 of this title [see Short Title note under section 5332 of this title], and any minimum or maximum rate, limitation, or allowance applicable to any such personnel, shall be adjusted, by amounts which are equal, insofar as practicable and with such exceptions as may be necessary to provide for appropriate relationships between positions, to the amounts of the adjustments made by the President under subparagraphs (1) and (2) of this section, by the following authorities—

(i) the President pro tempore of the Senate, with respect to the United States Senate;

(ii) the Speaker of the House of Representatives with respect to the United States House of Representatives;

(iii) the Architect of the Capitol, with respect to the Office of the Architect of the Capitol;

(iv) the Director of the Administrative Office of the United States Courts, with respect to the judicial branch of the Government; and

(v) the Secretary of Agriculture, with respect to persons employed by the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) [section 590h(b) of Title 16].

Such adjustments shall be made in such manner as the appropriate authority concerned deems advisable and shall have the force and effect of statute. Nothing in this section shall impair any authority pursuant to which rates of pay may be fixed by administrative action.

Section 212 of Pub.L. 90-206 effective Dec. 16, 1967, see section 220(a) (1) of Pub.L. 90-206, set out as a note under section 3110 of this title.

Legislative History. For legislative history and purpose of Pub.L. 91-375, see 1970 U.S. Code Cong. and Adm. News, p. 3649.

ORDER NO. 11073

as amended by Ex. Ord. No. 11173, Aug. 20, 1973, this section, which provided for federal



5 § 5304 GOVERNMENT ORGANIZATION

establish a plan for granting additional step-increases in recognition of high quality performance under section 5336 of title 5, United States Code [section 5336 of this title], and shall require that the plans (1) be as simple as practicable. (2) provide for delegation of authority to an appropriate management level, (3) seek to ensure fairness to all employees, and (4) provide for informing employees, at least annually, of the number of additional step-increases granted in their agencies.

(b) The Civil Service Commission shall (1) establish such regulations and standards as it deems appropriate for agency plans, (2) aid and advise agencies in the formulation and administration of the plans, and (3) evaluate the plans and their operation to ensure that step-increases are granted in a manner that is fair to employees and provides motivation for high quality performance.

Sec. 484. The Civil Service Commission, in prescribing regulations for higher rates of pay under section 5333(b) of title 5, United States Code [section 5333(b) of

this title], for employees having responsibility for supervision of prevailing-rate employees, shall give effect to the following:

(a) An irregular prevailing rate (such as the saved rate of a prevailing-rate employee not related to his current position) shall not serve to advance the pay rate of a supervisor under the General Schedule.

(b) The relative rate-range of a General Schedule supervisor and a prevailing-rate employee supervised by him shall be considered as well as the specific rate either is receiving at a given time.

(c) Due consideration shall be given to equities among General Schedule supervisors as well as those between a General Schedule supervisor and a prevailing-rate employee supervised by him.

PART V—PRIOR ORDER SUPERSEDED

Sec. 501. Executive Order 11073 of January 2, 1963, and Executive Order 11173 of August 20, 1964, are hereby superseded.

RICHARD NIXON

§ 5305. Annual pay reports and adjustments

(a) In order to carry out the policy stated in section 5301 of this title, the President shall—

(1) direct such agent as he considers appropriate to prepare and submit to him annually, after considering such views and recommendations as may be submitted under the provisions of subsection (b) of this section, a report that—

(A) compares the rates of pay of the statutory pay systems with the rates of pay for the same levels of work in private enterprise as determined on the basis of appropriate annual surveys that shall be conducted by the Bureau of Labor Statistics;

(B) makes recommendations for appropriate adjustments in rates of pay; and

(C) includes the views and recommendations submitted under the provisions of subsection (b) of this section;

(2) after considering the report of his agent and the findings and recommendations of the Advisory Committee on Federal Pay reported to him under section 5306(b) (3) of this title, adjust the rates of pay of each statutory pay system in accordance with the principles under section 5301(a) of this title, effective as of the beginning of the first applicable pay period commencing on or after October 1 of the applicable year; and

(3) transmit to Congress a report of the pay adjustment, together with a copy of the report submitted to him by his agent and the findings and recommendations of the Advisory Committee on Federal Pay reported to him under section 5306(b) (3) of this title.

(b) In carrying out its functions under subsection (a) (1) of this section, the President's agent shall—

(1) establish a Federal Employees Pay Council of 5 members who shall not be deemed to be employees of the Government of the United States by reason of appointment to the Council and shall not receive pay by reason of service as members of the Council, who shall be representatives of employee organizations which represent substantial numbers of employees under the statutory pay systems, and who shall be selected with due consideration to such factors as the relative numbers of employees represented by the various organizations, but no more than 3 members of the Council at any one time shall be from a single employee organization; council,

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(c) (1) If, affecting the g sider it inappro (a) of this sec September 1 o adjustment as l for, in lieu of section.

(2) An alte graph (1) of f first applicabl plicable year a period of 30 ca date on which a resolution dis mitted, in which shall be made The continuity Congress sine & because of an excluded in the

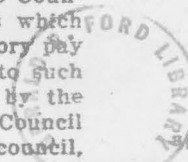
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(this title), for employees having responsibility for supervision of prevailing-rate employees, shall give effect to the following:

- (a) An irregular prevailing rate (such as the saved rate of a prevailing-rate employee not related to his current position) shall not serve to advance the pay rate of a supervisor under the General Schedule.
- (b) The relative rate-range of a General Schedule supervisor and a prevailing-rate employee supervised by him shall be considered as well as the specific rate either is receiving at a given time.
- (c) Due consideration shall be given to equities among General Schedule supervisors as well as those between a General Schedule supervisor and a prevailing-rate employee supervised by him.

**PART V—PRIOR ORDER
SUPERSEDED**

Sec. 501. Executive Order 11073 of January 2, 1963, and Executive Order 11173 of August 20, 1964, are hereby superseded.

RICHARD NIXON

federation, alliance, association, or affiliation of employee organizations;

(2) provide for meetings with the Federal Employees Pay Council and give thorough consideration to the views and recommendations of the Council and the individual views and recommendations, if any, of the members of the Council regarding—

(A) the coverage of the annual survey conducted by the Bureau of Labor Statistics under subsection (a) (1) of this section (including, but not limited to, the occupations, establishment sizes, industries, and geographical areas to be surveyed);

(B) the process of comparing the rates of pay of the statutory pay systems with rates of pay for the same levels of work in private enterprise; and

(C) the adjustments in the rates of pay of the statutory pay systems that should be made to achieve comparability between those rates and the rates of pay for the same levels of work in private enterprise;

(3) give thorough consideration to the views and recommendations of employee organizations not represented on the Federal Employees Pay Council regarding the subjects in paragraph (2) (A)–(C) of this subsection; and

(4) include in its report to the President the views and recommendations submitted as provided in this subsection by the Federal Employees Pay Council, by any member of that Council, and by employee organizations not represented on that Council.

(c) (1) If, because of national emergency or economic conditions affecting the general welfare, the President should, in any year, consider it inappropriate to make the pay adjustment required by subsection (a) of this section, he shall prepare and transmit to Congress before September 1 of that year such alternative plan with respect to a pay adjustment as he considers appropriate, together with the reasons therefor, in lieu of the pay adjustments required by subsection (a) of this section.

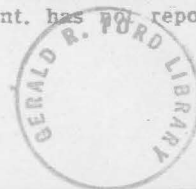
(2) An alternative plan transmitted by the President under paragraph (1) of this subsection becomes effective on the first day of the first applicable pay period commencing on or after October 1 of the applicable year and continues in effect unless, before the end of the first period of 30 calendar days of continuous session of Congress after the date on which the alternative plan is transmitted, either House adopts a resolution disapproving the alternative plan so recommended and submitted, in which case the pay adjustments for the statutory pay systems shall be made effective as provided by subsection (m) of this section. The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day period.

(d) Subsections (e)–(k) of this section are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(e) If the committee, to which has been referred a resolution disapproving the alternative plan of the President, has reported the



5 § 5305 GOVERNMENT ORGANIZATION

resolution at the end of 10 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same plan which has been referred to the committee.

(f) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon is limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(g) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same alternative plan.

(h) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an alternative plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(i) Debate on the resolution is limited to not more than 2 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(j) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to an alternative plan, and motions to proceed to the consideration of other business, are decided without debate.

(k) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an alternative plan are decided without debate.

(l) The rates of pay which become effective under this section are the rates of pay applicable to each position concerned, and each class of positions concerned, under a statutory pay system.

(m) If either House adopts a resolution disapproving an alternative plan submitted under subsection (c) of this section, the President shall take the action required by paragraphs (2) and (3) of subsection (a) of this section and adjust the rates of pay of the statutory pay systems effective as of the beginning of the first applicable pay period commencing on or after the date on which the resolution is adopted, or on or after October 1, whichever is later.

(n) The rates of pay that take effect under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of the increases; and

(2) any prior recommendations or adjustments which took effect under this section or prior provisions of law.

(o) The rates of pay that take effect under this section shall be printed in the Federal Register and the Code of Federal Regulations.

(p) An increase in rates of pay that takes effect under this section is not an equivalent increase in pay within the meaning of section 5335 of this title.

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(q) Any rate of pay under this section shall be initially adjusted, ef-
fective on the effective date of the rate of pay, under conversion rules
prescribed by the President or by such agencies as the President may
designate.

(r) This section does not impair any authority pursuant to which rates
of pay may be fixed by administrative action.
Added Pub.L. 91-656, § 3(a), Jan. 8, 1971, 84 Stat. 1946.

Adjustments in Rates of Pay of Feder-1, 1972, respectively. Notwithstanding the
al Statutory Pay Systems; Effective
Date. Pub.L. 92-210, § 3, Dec. 22, 1971, 85
Stat. 753, provided that:

"Notwithstanding any provision of section 3(c) of the Federal Pay Comparability Act of 1970 (Public Law 91-656) [set out as a note under this section], or of section 5305 of title 5, United States Code, as added by section 3(a) of Public Law 91-656 [this section], and the provisions of the alternative plan submitted by the President to the Congress pursuant thereto on August 31, 1971, such comparability adjustments in the rates of pay of each Federal statutory pay system as may be required under such sections 5305 and 3(c), based on the 1971 Bureau of Labor Statistics survey—

"(1) shall not be greater than the guidelines established for the wage and salary adjustments for the private sector that may be authorized under authority of any statute of the United States, including the Economic Stabilization Act of 1970 (Public Law, 91-379; 84 Stat. 799), as amended [set out as a note under section 1904 of Title 12], and that may be in effect on December 31, 1971; and

"(2) shall be placed into effect on the first day of the first pay period that begins on or after January 1, 1972.

Nothing in this section shall be construed to provide any adjustments in rates of pay of any Federal statutory pay system which are greater than the adjustments based on the 1971 Bureau of Labor Statistics survey."

Initial Adjustment; Effective Date; Exception. Section 3(c) of Pub.L. 91-656 provided that: "The President may make the initial adjustment required by subchapter I of chapter 53 of title 5, United States Code, as amended by this Act [this subchapter], without regard to the provisions of such subchapter relating to the Advisory Committee on Federal Pay and the Federal Employees Pay Council. Notwithstanding any provision of such subchapter I prescribing an effective date of October 1 for any pay adjustment made by the President, the initial adjustment based on the 1970 Bureau of Labor Statistics survey and the adjustment based on the 1971 Bureau of Labor Statistics survey shall become effective on the first day of the first applicable pay period that begins on or after January 1, 1971, and January

provisions of such subchapter 1, the President's agent for purposes of the 1971 and 1972 adjustments shall be the Director, Office of Management and Budget and the Chairman, United States Civil Service Commission. Adjustments under the provisions of such subchapter 1 shall not apply to employees of the Post Office Department whose basic pay is fixed under the General Schedule."

Equitable Wage Adjustments for Certain Prevailing Rate Employees. Sections 1 and 2 of Pub.L. 92-298, May 17, 1972, 86 Stat. 146, provided:

"That this Act [enacting provisions set out as notes under this section and amending notes set out under section 60a of Title 2, The Congress] may be cited as the 'Prevailing Rate Equalization Adjustment Act of 1972.'

"Sec. 2. (a) Notwithstanding any other provision of law or any provision of an Executive order or regulation, a wage schedule adjustment for employees of the Government of the United States whose pay is fixed and adjusted from time to time in accordance with prevailing rates—

"(1) if based on a wage survey ordered to be made on or after August 15, 1971, but not placed into effect before November 14, 1971, by reason of the provisions of Executive Order 11615 or Executive Order 11627 [formerly set out as notes under section 1904 of Title 12, Banks and Banking]; or

"(2) if based on a wage survey which had been scheduled to be made during the period beginning on September 1, 1971, and ending on January 12, 1972, and which was ordered to be made on or after January 13, 1972;

shall be effective on the date on which such wage schedule adjustment would have been effective under section 5343 of title 5, United States Code [section 5343 of this title], had the fiscal year 1972 schedule for wage surveys for such employees been followed.

"(b) Retrospective pay made under the provisions of this section will be made in accordance with section 5344 of title 5, United States Code [section 5344 of this title]."

Legislative History. For legislative history and purpose of Pub.L. 91-656, see 1970 U.S.Code Cong. and Adm.News, p. 5915.

EXECUTIVE ORDER NO. 11639

Jan. 11, 1972, 37 F.R. 521

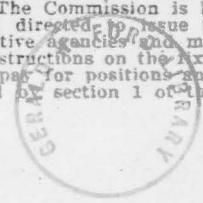
PAY ADJUSTMENTS FOR FEDERAL PREVAILING RATE SYSTEMS

By virtue of the authority vested in me by the Constitution and statutes of the United States, including the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799), as amended by the Economic Stabilization Act Amendments of 1971 (Public Law 92-210, 85 Stat. 743) [set out as a note under section 1904 of Title 12, Banks and Banking], it is hereby ordered as follows:

Section 1. The head of each executive agency or military department authorized to fix by administrative action the rate of basic pay for a position or employee

under subchapter IV of chapter 53 of title 5 of the United States Code [this subchapter], shall fix any such rate in accordance with instructions issued by the United States Civil Service Commission (hereinafter referred to as the Commission) under the authority of this order.

Sec. 2. (a) The Commission is hereby authorized and directed to issue to the heads of executive agencies and military departments instructions on the fixing of rates of basic pay for positions and employees covered by section 1 of this order.



5 § 5305 GOVERNMENT ORGANIZATION

(b) In issuing instructions under this order, the Commission shall maintain consistency in each pay schedule adjustment with the fiscal and economic policies of the United States, including the policies and pay increase guidelines issued by the Pay Board established under Executive order No. 11627 of October 13, 1971. No pay schedule adjustment shall exceed such guidelines, except where (1) a tandem relationship exists between a Federal pay schedule for a specialized employee unit and pay increases granted in a specialized activity in the private sector, (ii) the Pay Board has permitted a pay increase for the specialized activity in the private sector which is in excess of the guidelines, and (iii) it is determined that a comparable increase is essential to the continued operation of the Government service concerned.

Sec. 3. The instructions issued by the Commission under this order may (i)

prescribe definitions of the terms used herein, (ii) redelegate to the head of an executive agency or military department any of the Commission's authority under this order, and (iii) contain such other provisions as the Commission determines to be necessary and appropriate to carry out the purposes of this order.

Sec. 4. (a) The Commission may, in administering this order, utilize such services of other executive agencies and military departments as may be available and appropriate.

(b) On request of the Commission, an executive agency or military department is authorized and directed, consistent with law, to furnish the Commission with information which the Commission may require in carrying out its responsibilities under this order.

RICHARD NIXON

Notes of Decisions

- Generally 1
Construction with other laws 2
Mandamus 4
Ministerial duties 3

1. Generally

Potential embarrassment to the President in having court exercise its duty in authoritatively placing different interpretation than the President on this chapter and the amendments to the Economic Stabilization Act of 1970, set out as a note under section 1904 of Title 12, does not make that question of statutory interpretation nonjusticiable. National Treasury Emp. Union v. Nixon, C.A.D.C. 1974, 492 F.2d 587.

2. Construction with other laws

Notwithstanding provisions of Economic Stabilization Act of 1970, set out as a note under section 1904 of Title 12, federal employees had right to have the President adjust federal pay scales under this section in October, 1972, and Congress imposed such duty on the President. National Treasury Emp. Union v. Nixon, C.A.D.C.1974, 492 F.2d 587.

3. Ministerial duties

While court has authority to mandate the President to perform his duty to grant pay adjustment to federal employees pursuant to this subchapter ef-

fective October, 1972, court would not issue writ but would declare that President had constitutional duty to grant the increase mandated by Congress. National Treasury Emp. Union v. Nixon, C.A.D.C. 1974, 492 F.2d 587.

Once the President received necessary comparability studies, his obligation to adjust pay for federal employees under this subchapter was mandatory, involving no discretion. Id.

Fact that the President was required to interpret both the amendments to the Economic Stabilization Act of 1970, set out as a note under section 1904 of Title 12, and this chapter before determining what his legal obligations were under the provisions of this chapter with regard to October, 1972, pay increase for federal employees did not render his duty other than ministerial. Id.

4. Mandamus

Question of duty of the President to grant pay adjustment to federal employees under this subchapter effective October, 1972, did not involve a political question so as to preclude mandamus. National Treasury Emp. Union v. Nixon, C.A.D.C.1974, 492 F.2d 587.

Writ of mandamus would lie to compel the President to perform his duty under this subchapter to make adjustment in wages for federal employees effective October, 1972. Id.

§ 5306. Advisory Committee on Federal Pay

(a) There is established as an independent establishment an Advisory Committee on Federal Pay, to be composed of 3 members, not otherwise employed in the Government of the United States, appointed by the President. The Director of the Federal Mediation and Conciliation Service shall, and other interested parties may, recommend to the President for his consideration persons generally recognized for their impartiality, knowledge, and experience in the field of labor relations and pay policy to serve as members. The President shall designate one of the members as Chairman. Each appointment shall be for a term of 6 years, except that one of the original members shall be appointed for a term of 2 years, and another for a term of 4 years. A member appointed to fill a vacancy occurring before the end of the term of his predecessor shall serve for the remainder of that term. When the term of a member ends, he may continue to serve until his successor is appointed.

(b) To assist the President in carrying out the policy under section 5301 of this title, the Committee shall—

- (1) review the annual report of the President's agent;
(2) consider such further views and recommendations with respect to the analysis and pay proposals contained in the annual report

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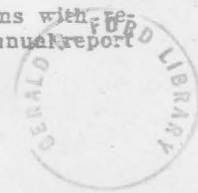
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prescribe definitions of the terms used herein, (ii) redelegate to the head of an executive agency or military department any of the Commission's authority under this order, and (iii) contain such other provisions as the Commission determines to be necessary and appropriate to carry out the purposes of this order.

Sec. 4. (a) The Commission may, in administering this order, utilize such services of other executive agencies and military departments as may be available and appropriate.

(b) On request of the Commission, an executive agency or military department is authorized and directed, consistent with law, to furnish the Commission with information which the Commission may require in carrying out its responsibilities under this order.

RICHARD NIXON

of Decisions

ffective October, 1972, court would not issue writ but would declare that President had constitutional duty to grant the increase mandated by Congress. National Treasury Emp. Union v. Nixon, C.A.D.C. 1974, 492 F.2d 587.

Once the President received necessary comparability studies, his obligation to adjust pay for federal employees under this subchapter was mandatory, involving no discretion. Id.

Fact that the President was required to interpret both the amendments to the Economic Stabilization Act of 1970, set out as a note under section 1604 of Title 12, and this chapter before determining what his obligations were under the provisions of this chapter with regard to October, 1972, pay increase for federal employees did not render his duty other than ministerial. Id.

4. Mandamus

Question of duty of the President to grant pay adjustment to federal employees under this subchapter effective October, 1972, did not involve a political question so as to preclude mandamus. National Treasury Emp. Union v. Nixon, C.A.D.C. 1974, 492 F.2d 587.

Writ of mandamus would lie to compel the President to perform his duty under this subchapter to make adjustment in wages for federal employees effective October, 1972. Id.

n Federal Pay

Independent establishment an Advisory composed of 3 members, not otherwise the United States, appointed by the Federal Mediation and Conciliation Services may, recommend to the President orally recognized for their impartiality, field of labor relations and pay policy ent shall designate one of the members shall be for a term of 6 years, except s shall be appointed for a term of 2 4 years. A member appointed to fill d of the term of his predecessor shall term. When the term of a member il his successor is appointed, carrying out the policy under section shall—

rt of the President's agent; views and recommendations with re- proposals contained in the annual report

of the President's agent as may be presented to it in writing by employee organizations, the President's agent, other officials of the Government of the United States, and such experts as it may consult; and

(3) report its findings and recommendations to the President.

(c) The Committee may secure from any Executive agency or military department information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions. Each such Executive agency or military department shall furnish the information, suggestions, estimates, statistics, and technical assistance directly to the Committee on request of the Committee.

(d) On request of the Committee the head of any Executive agency or military department may detail, on a reimbursable basis, any of its personnel to assist the Committee in carrying out its functions.

(e) The Administrator of General Services shall provide administrative support services for the Committee on a reimbursable basis.

(f) The Committee may obtain services of experts or consultants in accordance with section 3109 of this title but at rates for individuals not to exceed that of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of this chapter.

(g) Each member of the Committee is entitled to pay at the daily equivalent of the annual rate of basic pay of level IV of the Executive Schedule for each day he is engaged on work of the Committee, and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703(b) of this title.

(h) The Committee may appoint and fix the pay of such personnel as may be necessary to carry out its functions.

Added Pub.L. 91-656, § 3(a), Jan. 8, 1971, 84 Stat. 1949.

Legislative History. For legislative history and purpose of Pub.L. 91-656, see 1970 U.S.Code Cong. and Adm.News, p. 5915.

§ 5307. Pay fixed by administrative action

(a) Notwithstanding section 665 of title 31—

(1) the rates of pay of—

(A) employees in the legislative, executive, and judicial branches of the Government of the United States (except employees whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) and of the government of the District of Columbia, whose rates of pay are fixed by administrative action under law and are not otherwise adjusted under this subchapter;

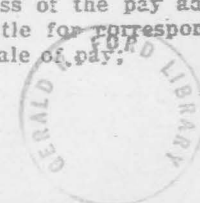
(B) employees under the Architect of the Capitol, whose rates of pay are fixed under section 1665-3 of title 40, and the Superintendent of Garages, House office buildings; and

(C) persons employed by the county committees established under section 590h(b) of title 16; and

(2) any minimum or maximum rate of pay (other than a maximum rate equal to or greater than the maximum rate then currently being paid under the General Schedule as a result of the pay adjustment by the President), and any monetary limitation on or monetary allowance for pay, applicable to employees described in subparagraphs (A), (B), and (C) of paragraph (1) of this subsection;

may be adjusted, by the appropriate authority concerned, effective at the beginning of the first applicable pay period commencing on or after the day on which a pay adjustment becomes effective under section 5305 of this title, by whichever of the following methods the appropriate authority concerned considers appropriate—

(i) by an amount or amounts not in excess of the pay adjustment provided under section 5305 of this title for corresponding rates of pay in the appropriate schedule or scale of pay;



5 § 5307 GOVERNMENT ORGANIZATION

(ii) if there are no corresponding rates of pay, by an amount or amounts equal or equivalent, insofar as practicable and with such exceptions and modifications as may be necessary to provide for appropriate pay relationships between positions, to the amount of the pay adjustment provided under section 5305 of this title; or

(iii) in the case of minimum or maximum rates of pay, or monetary limitations or allowances, with respect to pay, by an amount rounded to the nearest \$100 and computed on the basis of a percentage equal or equivalent, insofar as practicable and with such variations as may be appropriate, to the percentage of the pay adjustment provided under section 5305 of this title.

(b) An adjustment under subsection (a) of this section in rates of pay, minimum or maximum rates of pay, and monetary limitations or allowances with respect to pay, shall be made in such manner as the appropriate authority concerned considers appropriate.

(c) This section does not authorize any adjustment in the rates of pay of employees whose rates of pay are fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates or practices.

(d) This section does not impair any authority under which rates of pay may be fixed by administrative action.

Added Pub.L. 91-656, § 3(a), Jan. 8, 1971, 84 Stat. 1950.

Legislative History. For legislative history 1970 U.S.Code Cong. and Adm.News, p. 5915.

§ 5308. Pay limitation

Pay may not be paid, by reason of any provision of this subchapter, at a rate in excess of the rate of basic pay for level V of the Executive Schedule.

Added Pub.L. 91-656, § 3(a), Jan. 8, 1971, 84 Stat. 1951.

Legislative History. For legislative history 1970 U.S.Code Cong. and Adm.News, p. 5915.

SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$35,000:

[See main volume for text of (1) to (4)]

(5) Repealed. Pub.L. 91-375, § 6(c) (12), Aug. 12, 1970, 84 Stat. 776.

[See main volume for text of (6) to (12)]

As amended Pub.L. 91-375, § 6(c) (12), Aug. 12, 1970, 84 Stat. 776.

1970 Amendment. Par. (5). Pub. L. 91-375 repealed provision for inclusion of position of Postmaster General in Level I of the Executive Schedule.

Effective Date of 1970 Amendment. Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

1969 Increases in Salaries. Salaries of positions at Level I increased from \$35,000 to \$90,000 per annum, commencing February 14, 1969, upon recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

Compensation and Emoluments of Attorney General; Fixing at Level in Effect on Jan. 1, 1969. Pub.L. 93-178, § 1, Dec. 10, 1973, 87 Stat. 697, provided: "That the compensation and other emoluments attached to the Office of Attorney General shall be those which were in effect on January 1, 1969, notwithstanding the provisions of the salary recommendations for 1969 increases transmitted to the Congress on January 15, 1969 [set out as a note under section 358 of Title 2, The Congress], and notwithstanding any other provision of law, or provision which has the force and effect of law, which is enacted or becomes effective during the period from noon, January 3, 1969, through noon, January 2, 1975."

Legislative History. For legislative history and purpose of Pub.L. 91-375, see 1970 U.S.Code Cong. and Adm.News, p. 3649.



Date: November 13, 1974

Time:

FOR ACTION: Phil Buchen

cc (for information):

Ken Cole

Bill Timmons

Bob Hartmann

Bill Seidman

Jack Marsh

Bill Walker

FROM THE STAFF SECRETARY

DUE: Date: November 15, 1974Time: cob

SUBJECT:

Ash memo (11/12/74) re: Executive, Judicial and
Legislative Pay

ACTION REQUESTED:

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

REMARKS:

The President should take the position that the recommendations last submitted by the quadrennial commission (adjusted as may be appropriate and justifiable) should now be enacted. A phasing in provision as suggested in point 5 on page 2 seems appropriate.

Although I do not feel strongly about delaying any increase until FY 76, such a delay does not seem responsive to the pay problem outlined at the outset of the Ash memorandum.

The general approach described as "a possible solution" on page 2 seems sound.

J.W.B.
Philip Buchen

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

K. R. COLE, JR.
For the President

NOV 12 1974

THE WHITE HOUSE

WASHINGTON

DECISION

MEMORANDUM FOR: THE PRESIDENT

FROM: ROY L. ASH

SUBJECT: EXECUTIVE, JUDICIAL AND LEGISLATIVE PAY

Background

During your meeting with the Advisory Committee on Federal Pay, they mentioned the problems which have arisen because pay of Federal executives, judges and members of Congress has been frozen for over five years. You pointed out that Congress is unlikely to raise the other salaries unless they raise their own too. It now appears that Congress may take this issue up when it returns.

In meetings involving senior staff of OMB and CSC with top staff of House and Senate Civil Service Committees, the Chief Counsel of the House Committee reported that he had been instructed by senior members to work for an increase of \$10,000 in congressional pay to be voted on in the post-election session and to take effect in January. Senate staffers indicated they had been instructed to work for the highest and promptest increase that seemed feasible of enactment. The staff group consensus is that an increase of \$5,000 next January and another increase of \$5,000 in January of 1976 would be more feasible than an immediate \$10,000 boost. The representatives of OMB and CSC have indicated consistently that they had no authority to commit the Administration on any aspect of this issue.

The Pay Problem

It is becoming increasingly difficult to attract and hold high quality people for non-career and judicial appointments, and to retain high-level experienced career people because:

- Executive, judicial and legislative pay has remained unchanged since 1969 while the cost of living has increased by 40%
- General Schedule employees pay has risen 37%
- Top steps of GS-15, most of GS-16, all of GS-17 and GS-18 and Executive Level V are at the same pay - \$36,000 (pay compression problem)



- Annuities, being indexed to the CPI, are rising so rapidly that executives can gain more by retiring than by working.

Each passing year will worsen this situation. The long delay between increases has made the existing mechanism (quadrennial commission) inoperative because of the large increases that Congress would have to approve to catch up.

A Possible Solution

1. Set pay of GS-16, -17, and -18 by using the existing system for annual adjustment of General Schedule salaries on the basis of BLS comparability studies. This provision is already in the law, but the resulting salaries cannot take effect because they exceed the statutory pay of Executive Level V (\$36,000).
2. Abolish the quadrennial commission mechanism and substitute a law requiring that the President annually submit to Congress specific recommendations for Executive Level salaries based on a formula.
3. The formula would provide that pay of Executive Level V would be 5% greater than GS-18, and pay of the other executive levels would each be 5% greater than the next lower level.
4. The President's recommendations would take effect the succeeding January 1 unless vetoed or modified by Congress.
5. That formula would result in substantial increases because GS-18 should now be \$46,336 according to the current comparability law. Therefore, some limit would have to be placed on the size of the initial, and perhaps first few, adjustments; say \$5,000.

Administration Position

While it is not necessary for you to take a public position on this issue now, it appears that you may have to before the Congress adjourns.

Options

1. Take no public position; let Congress vote an increase, if it wishes.



Pro - avoids the incongruity of asking for pay raises while advocating restraint in other areas.

Con - is a passive approach to solving the pay problem.

- committee leadership may not act without assurance of your support, or may prepare unacceptable solution.

2. Take a position against any increase.

Pro - consistent with objective to restrain spending.

- is likely to be popular with news media and public.

Con - pay problem will continue to have harmful consequences for Government and will grow worse each year.

- if action is not taken in post-election session, there probably will be no action until 1977 (quadrennial commission).

3. Accept an increase only after the Congress takes the initiative.

Pro - likely to develop mutually agreeable solution to pay problem.

Con - may lead to news media and public criticism.

- will increase spending by about \$20-25 million.

4. Take a position favoring changing the mechanism, but delaying initial pay adjustments until FY 76.

Pro - likely to result in acceptable legislation creating new executive pay mechanism which will facilitate solution of the problem in the future.

- will surface the problem, but avoid criticism of inconsistency with FY 75 budget restraint.

Con - pay problem will continue until FY 76.

- gap will widen between current executive pay and where it should be on comparability basis.



A plan to proceed will be developed on the basis of your decision. My recommendation is Option three.

Decision

_____ . Option 1

_____ Option 2

_____ Option 3

_____ Option 4

_____ See me



Federal Salary Commission

Tuesday 12/3/74

MEETING
12/4/74
2:30 p. m.

3:20 William Gossett (former President of the ABA and a member of the Federal Salary Commission) called to say he is coming down from Detroit tomorrow. He, along with Roger Bough, Judge Campbell (Chicago), and Roland Kirks, will be meeting with William Simon at 10 a. m. tomorrow (12/4), and then with Donald Rumsfeld at 1:30 p. m. to discuss the executive, judicial and legislative salaries. Would like to meet with you concerning the legal side of the proposal. (313) 643-9640

Would 2:30 tomorrow be O. K. with you?

He will be leaving Detroit early tomorrow morning.

If this time isn't satisfactory, we can either call him this afternoon or get in touch with Roger Blough (law firm of White and Case)

(Mr. Gossett said he knew you when he was General Counsel of Ford Motors) ????



December 4, 1974

To: Stan Ebner

From: Phil Buchen



United States Senate

MEMORANDUM

December 3, 1974
5:30 P.M.

Phil -

Enclosed is the Memorandum
Opinion prepared by Chief Judge
William Campbell of Chicago, which
has been submitted and approved
by legal counsel to Speaker Albert
and Majority Leader Mansfield.

I understand that Judge
Campbell and Bill Hassett,
former ABA President are requesting
an appointment to talk with you
in this regard.

It was a pleasure to have the opportunity
to meet with you. Best wishes
Jeri Hayden
U.S. District Judge



Section 225 of the Postal Revenue and Federal Salaries Act of 1967 (Pub. L. 90-206; 81 Stat. 642) created the Commission on Executive, Legislative and Judicial Salaries to review the rates of pay of various federal officials, including Senators, Congressmen and Federal Judges. (2 USC § § 352 and 356).

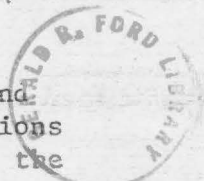
The Act provides that members of the Commission shall be appointed for a one year term every fourth year commencing with the 1969 fiscal year. Section 225 (g) [2 USC § § 357] requires that the Commission submit a report to the President containing its recommendations respecting salary increases not later than January 1 next following the close of fiscal year in which the Commission has conducted its review. Section 225 (h) [2 USC § 358] requires that the President include in the budget next transmitted to Congress after receipt of the Commission's report, his recommendations with respect to exact rates of pay for the offices and positions covered under the Act. Finally, Section 225 (i) [2 USC § 359] provides that the President's recommendations shall become law beginning the first pay period after the 30th day following transmittal by the President of his recommendations, provided that they are not vetoed by either the House or the Senate.

On July 27, 1973, the Commission submitted its report to the President, which included the following recommendations:

- (1) That the annual salary of Senators and Representatives be increased to \$53,000.
- (2) That the annual salary of Circuit Judges be increased to \$53,000.
- (3) That the annual salary of District Judges be increased to \$50,000.

The President decided to modify downward these recommendations, and submitted to Congress, as part of the 1974 Budget, his own recommendations for the exact rates of pay for the offices and positions covered under the Act. As you know, these recommendations were not approved by Congress, and accordingly, annual salaries were not increased, contrary to the Commission's and the President's recommendations.

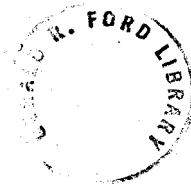
It is important to bear in mind that, while the Act obliges the President to include his recommendations for salary adjustments in the budget next transmitted to Congress after receipt of the Commission's report, it does not prohibit the President from submitting recommendations in subsequent years, particularly where the recommendations first submitted have not been approved by Congress. Accordingly, President Ford may submit without modification to the next Congress the full recommendations set forth in the Commission's Report, in accordance with his authority under Section 225 (h). Should neither House of Congress disapprove these recommendations, they will become law at the beginning of the first pay period after the thirtieth day following their transmittal by the President.



The authority of the President to submit the unmodified recommendations of the Commission is based upon:

- (a) The aforementioned provisions of Section 225 (h);
- (b) The absence of any provision in the Act to the contrary;
- (c) The purposes behind passage of this legislation. (See generally, Congressional Record, Volume 113, Number 26, pages 36088 through 36109 and Congressman Udall's remarks at pages 35838-39); and
- (d) The fact that, as a result of the Congress' disapproval of President Nixon's 1974 budgetary recommendations, the salary increases proposed in the Commission's 1973 Report have not yet been implemented, either in their original form or as modified by the President.

Section 225 was enacted to provide for periodic increases in the salary levels of those covered under the Act in order to attract the best qualified candidates for these positions, and to insure that those previously appointed can afford to remain in office. This point is particularly apt in the context of judicial appointments due to the considerable disparity which often exists between judicial salaries and the income levels of the best qualified members of the legal profession, combined with the tight restrictions properly imposed upon the judiciary with respect to "outside" sources of income. Approval by Congress of the President's forthcoming recommendations is accomplished by no action whatever thereon and becomes of critical importance.



Pay

December 10, 1974

MEMORANDUM FOR:

JERRY JONES

FROM:

PHILIP BUCHEN

Enclosed are:

1) A sealed envelope addressed to the President, which I am advised contains a letter seeking the President's support for increase in compensation of Federal executives.

2) An explanation of the principles and objectives of the Federal Executives League.

I was asked by Hearing Judge (NLRB) Eugene Goslee to be the conduit for these transmissions.





FEDERAL EXECUTIVES LEAGUE
Bureau of National Affairs Building – Room 430
1229 – 25th Street, N.W.
Washington, D.C. 20037
Telephone (202) 785-4536

Rexford A. Resler
(U.S. Forest Service),
Chairman of the Board

Eugene G. Goslee
(NLRB), President

Robert G. Rhodes
(ICC), Vice President

Lois Dean
(HUD), Secretary

John J. O'Brien
(IRS), Treasurer

December 12, 1974

Phillip Buchen
Office of the President
The White House
Washington, D. C.

Dear Mr. Buchen:

In the letter to President Ford, I had intended to include reference to the broad principles and objectives of the Federal Executives League, which in most respects transcend the issue of compensation. However, I hesitated to make the letter any longer than necessary.

Accordingly, I have enclosed three copies of our resolves, as adopted on October 10, 1974, and we will appreciate transmittal of a copy to the President.

Sincerely yours,

Eugene G. Goslee
President
Federal Executives League

RESOLVES

In order to encourage and promote a more perfect Federal Civil Service dedicated to better government and the well-being of the American Federal System, and in further order to promote and advance the common interests and welfare of its members and all federal executives, administrators and managers, it is hereby resolved that:

1. There is established the Federal Executives League, whose membership shall consist of all executives, administrators and managers presently or hereafter serving in the Federal Civil Service at the general schedule level of GS-15 or above, or at any comparable level in an equivalent schedule of the federal services, or at any equivalent level of responsibility and/or salary level, and it is hereby further resolved;

2. The Federal Executives League shall have as its primary mission the protection and advancement of the integrity, dedication, professional standing and general well-being of the senior Civil Service, thereby promoting ethical, efficient and effective practices and procedures at the higher managerial and administrative levels in all departments and agencies within the federal system, and;

3. In furtherance of its primary mission, and with unanimity and a common voice, the Federal Executive League shall adopt, *inter alia*, the following major objectives;

(a) To protect the senior Civil Service from any and all political or other extraneous pressures which affect, or tend to affect the proper and ethical performance of official duties, functions and responsibilities.

(b) To promote and further the principles of efficient, effective and ethical managerial practices.

(c) To increase the mobility and the effective utilization of executives, managers and administrators in all departments and agencies in the federal system, as well as in counterpart organizations in state and local governments and in the private sector.

(d) To promote and advance the career Civil Service as a means to attract and retain highly qualified personnel at all levels of management, with the assurance of fair rewards, adequate training and mobility opportunities, job satisfaction and remuneration, and these stated objectives shall be attended by full observance and promotion of equal employment opportunities for all qualified persons without regard to race, color, creed, sex, national origin or political affiliation.

(e) To advance a voice in the formulation and implementation of policies and standards concerning fair and reasonable remuneration and terms and conditions of employment for all executives, managers and administrators in the federal system.

Dated at Charlottesville, Virginia this 10th day of October, 1974.



THE WHITE HOUSE
WASHINGTON
December 18, 1974

Pary
Appointment
of
Congressman
to another
position

MEMORANDUM FOR: PHILIP BUCHEN
FROM: WILLIAM E. TIMMONS *WT*
SUBJECT: Attorney General's Compensation

As you may know the Congress had to enact a special law at the time of Bill Saxbe's confirmation to satisfy the Constitutional requirements of a Member of Congress taking a federal post after raising the salary of that position.

There is some uncertainty about the Attorney General's emoluments in the future. One school of thought says it automatically is raised to \$60,000 on January 2, 1975. Another has the provision applying only to a former Member. Still a third school argues that a new law must be enacted to raise the salary.

At any rate, it's your problem now. Attached is copy of Act and the committee report.



COMPENSATION OF THE OFFICE OF ATTORNEY
GENERAL OF THE UNITED STATES

NOVEMBER 13, 1973.—Ordered to be printed

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

REPORT

[To accompany S. 2673]

The Committee on Post Office and Civil Service, to which was referred the bill (S. 2673) to insure that the compensation and other emoluments attached to the office of Attorney General are those which were in effect on January 1, 1969, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 2673 is to reduce the salary of the Office of Attorney General to its pre-January 15, 1969 level of \$35,000 per annum. The legislation was introduced at the request of the Administration. It is the judgment of the Attorney General that S. 2673 must become law before the nomination of Senator Saxbe can be submitted to the Senate.

On January 3, 1969, when Senator Saxbe began his term of office, the salary of the Office of Attorney General was \$35,000. Later in 1969, under PL 92-206, the salary of the Office of Attorney General was increased to \$60,000.

Article I, Section 6, Clause 2 of the Constitution provides that:

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

This measure achieves its purpose by reducing the Attorney General's salary to that amount authorized by law on January 3, 1969.



when he took office. The Committee has no desire or intention to resolve any constitutional issue regarding Senator Saxbe's appointment as Attorney General of the United States. Such issues are not within the jurisdiction of the Senate Committee on Post Office and Civil Service.

STATEMENT

The Acting Attorney General of the United States, Robert H. Bork, stated in his testimony before the Committee on November 13, 1973, that his initial view of the Constitutional injunction cited above was that it would not be unconstitutional for nomination and Senate consideration to move forward in the absence of the remedy provided by this bill. The Constitution, he pointed out, speaks of a Senator or Representative being *appointed*; and nomination and consideration in the Senate would, on the face of it, appear to be steps which precede actual appointment. The Acting Attorney General stated, however, that legal research conducted by his office shows that history does not bear out his initial view; and that should Senator Saxbe be appointed and should Judiciary Committee consideration proceed prior to the elimination of the Constitutional impediment with regard to salary, the legality of his appointment could later be challenged in the courts.

Accordingly, upon the advice of the Acting Attorney General and upon the basis of a specific written request of the President of the United States, the Chairman of the Committee and the ranking Republican Member agreed to hold a hearing and to consider the bill. Having heard the testimony of the Acting Attorney General as to the necessity for this Committee's taking initial action, and having considered the measure, the Members of the Committee unanimously agreed to the bill reducing the salary of the Attorney General.

BACKGROUND

The Committee was initially reluctant to involve itself in Senate procedures involving the appointment of an Attorney General of the United States, because, very clearly, recommendations to the Senate with regard to its advice and consent on this appointment fall within the purview of the Senate Judiciary Committee and no other.

The Committee's action is based upon the Acting Attorney General's testimony and the statement of the President of the United States contained in his letter of November 8, 1973, to the Chairman: "Constitutional precedents beginning with President Washington indicate that the nomination of an individual not then eligible may be improper and that any subsequent appointment based on such nomination might be null and void."

ADDITIONAL VIEWS

Following are additional views of Senator Quentin N. Burdick:

In joining with the Committee in approving this legislation to reduce the salary of the proposed nominee for Attorney General, I want to indicate that I reserve my right to make a *further* judgment on the constitutionality of this legislation.

QUENTIN N. BURDICK.

Following is a
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be Attorney Gen

HON. GALE W. M.
Chairman, Comm
Washington.

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THE PRESIDENT'S RECOMMENDATION

Following is a letter from the President of the United States to the Chairman of the Committee specifically requesting that S. 2673 be acted upon favorably prior to his nomination of Senator Saxbe to be Attorney General.

THE WHITE HOUSE,
Washington, November 8, 1973.

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

DEAR MR. CHAIRMAN: I wish to inform you of my intention to nominate Senator William B. Saxbe of Ohio to be Attorney General of the United States, immediately upon enactment of remedial legislation that would eliminate a Constitutional impediment to Senator Saxbe's appointment.

Without this legislation, doubt would exist concerning Senator Saxbe's eligibility because Article I, section 6, clause 2 of the Constitution provides:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; * * *"

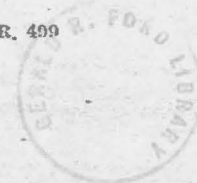
During Senator Saxbe's term of service in the United States Senate the annual salary of the Office of Attorney General was increased from \$35,000 to \$60,000.

On November 5, 1973, Acting Attorney General Robert H. Bork submitted legislation which would remove the Constitutional impediment to Senator Saxbe's appointment by reducing the compensation and other emoluments attached to the Office of Attorney General to those in effect before Senator Saxbe began his Senate term.

This solution has historical support. In 1909, similar legislation was enacted at the request of President Taft to reduce the salary of the Office of the Secretary of State so that Senator Philander C. Knox would be eligible for appointment, the compensation and other emoluments of that Office having been increased during the Senate term which Knox was then serving. After enactment of remedial legislation, Senator Knox was nominated, and confirmed by the Senate.

Constitutional precedents beginning with President Washington indicate that the nomination of an individual not then eligible may be improper and that any subsequent appointment based on such nomination might be null and void.

On February 28, 1793, President Washington withdrew the nomination of William Patterson of New Jersey to be Associate Justice of the Supreme Court on the ground that Mr. Patterson "was a member of the Senate when the law creating that Office was passed, and that the time for which he was elected is not yet expired. I think it my duty therefore, to decree that I deem the nomination to have been nulled by the Constitution."



This position has been consistently followed by the Attorney General of the United States in opinions in 1883 by Attorney General Brewster and in 1895 by Acting Attorney General Conrad.

I strongly urge that corrective legislation be enacted as soon as possible. I will submit the nomination of Senator Saxbe immediately upon passage of such legislation so that the Senate may proceed with the confirmation process.

Sincerely,

RICHARD NIXON.

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AGENCY VIEWS

Following is a letter from the Acting Attorney General of the United States, requesting that S. 2673 be introduced, and acted upon affirmatively; and the statement of the Acting Attorney General at the Committee hearing November 13, 1973, providing the results of the research conducted by the Attorney General's office into the historical precedents for this measure.

DEPARTMENT OF JUSTICE.

STATEMENT OF ROBERT H. BORK, ACTING ATTORNEY GENERAL, BEFORE THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. SENATE, CONCERNING S. 2673, RELATING TO THE SALARY OF THE ATTORNEY GENERAL, NOVEMBER 13, 1973

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to appear to give the Department of Justice views on S. 2673, relating to the salary of the Attorney General.

Article I, Section 6, Clause 2 of the Constitution provides that:

"No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States: shall be a Member of either House during his Continuance in Office."

As you know, the President has announced his intention to nominate Senator William B. Saxbe to be Attorney General of the United States. The salary applicable to the office of Attorney General under existing law is \$60,000 because of a recommendation for salary increases submitted to the Congress pursuant to Public Law 90-206 on January 15, 1969. The salary for the office of Attorney General at the time Senator Saxbe began his term of office on January 3, 1969, was \$35,000, set at that figure by Public Law 89-554, passed on September 6, 1966. S. 2673 is designed to remove the question of the impact of the quoted constitutional provision on the nomination of Senator Saxbe to be Attorney General of the United States.

There are two precedents for the proposed action. First, Lot M. Morrill was appointed to serve as Secretary of the Treasury in 1876 after having been elected to the Senate in 1871. Cabinet officers' salaries had been raised in 1873 from \$8,000 to \$10,000 and returned in 1874 to \$8,000. Senator Morrill's nomination was nevertheless confirmed by the Senate.

Second, a measure with the same purpose as the bill under consideration today was passed by the Congress in 1909 in order to permit the nomination of Senator Philander Knox to be Secretary of State.

(5)

Senator Knox had been elected in 1905 for a term expiring on March 3, 1911. In 1907 the compensation of the Secretary of State had been increased from \$8,000 to \$12,000. An unofficial opinion of Assistant Attorney General Russell commenting on the bill which reduced the compensation of the Secretary of State to \$8,000 states that the purpose of the constitutional provision was "to destroy the expectation a Representative or Senator might have that he would enjoy the newly created office or newly created emoluments." 43 Cong. Rec. 2403, February 15, 1909. After passage of the remedial legislation, Senator Knox was nominated and confirmed as Secretary of State.

The purpose of the constitutional provision is clearly met if the salary of an office is lowered after having been raised during the Senator's or Representative's term of office. The Senators and Representatives know that, because of the constitutional provision, they cannot be appointed to an office with a higher salary than was provided at the beginning of their current term of office, so the expectation of a higher salary cannot influence their votes on legislation to raise salaries of Federal officers.

S. 2673 should remove any constitutional question which may be raised concerning the appointment of Senator Saxbe to be Attorney General of the United States. I urge its early consideration by this Committee and prompt enactment by the Senate in order to facilitate consideration of Senator Saxbe.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., November 5, 1973.

PRESIDENT PRO TEMPORE,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT PRO TEMPORE: Enclosed for your consideration and appropriate reference is a legislative proposal to provide that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969.

Article I, Section 6, Clause 2 of the Constitution provides: "No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office."

When Senator William B. Saxbe of Ohio began his term of service in the United States Senate on January 3, 1969, the salary for the Office of Attorney General was established by P.L. 89-554 (80 Stat. 460, September 6, 1966) at \$35,000. On January 15, 1969, the President transmitted to the Congress pursuant to P.L. 90-206 (81 Stat. 642, December 16, 1967) a recommendation increasing the annual salary for the Office of Attorney General to \$60,000.

The accompanying legislation is designed to remove the question concerning the impact of Article I, Section 6, Clause 2 on the President's nomination of Senator William B. Saxbe to be Attorney General of the United States.

S.R. 499

I urge prompt
The Office of
of this proposal
Sincerely,



I urge prompt consideration and enactment of this legislation. The Office of Management and Budget has advised that enactment of this proposal is in accord with the Program of the President.

Sincerely,

ROBERT H. BORK,
Acting Attorney General.

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NEY GENERAL,
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THE WHITE HOUSE
WASHINGTON


December 18, 1974

To: Bill Timmons

From: Phil Buchen *T.W.B.*

Attached is a copy of a memorandum previously sent to Jack Marsh by Phil Areeda. By all means, we should support the new bill that will repeal P. L. 93-178.

Attachments



December 13, 1974

MEMORANDUM FOR: JACK MARSH
FROM: PHIL AREEDA
SUBJECT: SALARY OF ATTORNEY GENERAL

When Saxbe was made Attorney General, the Congress enacted P. L. 93-178 reducing the compensation of that office in order to comply with Article I, Section 6 of the Constitution. That Section precludes the appointment of a Senator to an office whose salary was increased during the period for which that Senator was elected.

Saxbe's Senatorial term would have ended this year. And, as you know, there will soon be a new Attorney General.

Accordingly, it is appropriate to repeal P. L. 93-178 and to provide that the Attorney General's compensation should be the same as that of other Cabinet members. A draft bill is attached for that purpose. Perhaps this is a matter on which Congress could act routinely and expeditiously before it adjourns.

I have coordinated this matter with Silberman, Ebner and Walker. They all agree. I have not consulted anyone else.

*Phil Areeda
also agrees.*

Attachment

PA/ec

PA Chron.
Levi File

copy to Mr. Bush



IN THE SENATE OF THE UNITED STATES

Mr. _____

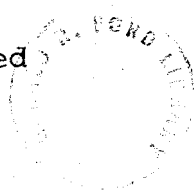
introduced the following bill; which was read twice and referred to the Committee on

A BILL

Compensation and other emoluments attached to the
Office of the Attorney General.

(Insert title of bill here)

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the first section of the Act entitled "An
4 Act To insure that the compensation and other
5 emoluments attached to the Office of the Attorney
6 General are those which were in effect on Janu-
7 ary 1, 1969" (Public Law 93-178; 87 Stat. 697), is
8 repealed effective as of January 3 , 1975 ,
9 and the compensation and other emoluments attached
10 to the Office of the Attorney General shall, on
11 and after that date, be those that now or here-
12 after attach to offices and positions at
13 level I of the Executive Schedule (5 U.S.C. 5312).



THE WHITE HOUSE
WASHINGTON

Wasn't sure if you
had seen the action
memo on Executive
pay as it was sent
down by Mr. Areeda --
so borrowed Jane's
copy to make one for
you.

Photocopy



Date

1975

Time:

FOR ACTION:

Phil Buchen

cc (for information):

Ken Cole

Max Friedersdorf *W* Bill Seidman

Bob Hartmann

Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date:

Monday, January 6, 1975

Time:

6:00 p.m.

SUBJECT:

Ash memo (1/2/75) re: Executive,
Judicial and Legislative Pay'

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

*Agree with this option on the assumption
that mechanism will be provided for
correcting the top compression of pay scales at
the top.*
P. Areeda



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

Jerry H. Jones
Staff Secretary

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: January 3, 1975

Time:

FOR ACTION:

Phil Buchen

Ken Cole

Max Friedersdorf

Bob Hartmann

Jack Marsh

cc (for information):

Bill Seidman

*For
Shelton
has
responded
P.*

FROM THE STAFF SECRETARY

DUE: Date:

Monday, January 6, 1975

Time:

6:00 p.m.

SUBJECT:

Ash memo (1/2/75) re: Executive,
Judicial and Legislative Pay'

ACTION REQUESTED:

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

REMARKS:



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

Jerry H. Jones
Staff Secretary

THE WHITE HOUSE

WASHINGTON

January 2, 1975

ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM:

Roy L. Ash

SUBJECT: Executive, Judicial and Legislative Pay

I. BACKGROUND

At the end of your discussion of the above subject with the Congressional Leaders recently, you indicated that you would get back to them on the matter before they reconvened. Consequently, a decision must be reached before then on the course you will take on this controversial issue.

Moreover, Senator McGee, who is Chairman of the Senate Post Office and Civil Service Committee, has requested a meeting with you on the same subject. He wants a large meeting with senior members of House and Senate Committees and the Congressional Leaders of both parties in attendance. His purpose would be to decide collectively what, if any, legislation is feasible.

II. OPTIONS

In addition to the options presented you in my memo of November 12 on this subject (copy attached) another one is now available. It ties to the tentative decision you reached to hold this year's pay comparability increases for Federal employees to 5%.

III. RECOMMENDATION

As you cover the Federal pay decision in your State of the Union Message, the language could be broadened to state that a 5% increase will be given to all Federal employees, to those on the General Schedule at their normal adjustment date (October 1) and to

the Executive Level employees, who have received no increases for 5 years, on April 1. Then, also, you could propose that Executive Level pay hereafter be adjusted annually by a procedure such as the comparability one for General Schedule employees. (The basis for such a plan has been worked out with Hill staff.)

If you favor this approach, you could quietly advise Senator Scott and Congressman Rhodes of this Executive pay decision as you near the Message date and ask them to inform the rest of the Congressional Leaders. This will fulfill your promise to get back to them. Then, I would recommend that you not have a large meeting with Senator McGee but, instead, meet with him privately, or with a very few others, to discuss your position.

_____ Approve

_____ Disapprove

Attachment



MEMORANDUM FOR: THE PRESIDENT

NOV 12 1974

FROM: ROY L. ASH

SUBJECT: EXECUTIVE, JUDICIAL AND LEGISLATIVE PAY

Background

During your meeting with the Advisory Committee on Federal Pay, they mentioned the problems which have arisen because pay of Federal executives, judges and members of Congress has been frozen for over five years. You pointed out that Congress is unlikely to raise the other salaries unless they raise their own too. It now appears that Congress may take this issue up when it returns.

In meetings involving senior staff of OMB and CSC with top staff of House and Senate Civil Service Committees, the Chief Counsel of the House Committee reported that he had been instructed by senior members to work for an increase of \$10,000 in congressional pay to be voted on in the post-election session and to take effect in January. Senate staffers indicated they had been instructed to work for the highest and promptest increase that seemed feasible of enactment. The staff group consensus is that an increase of \$5,000 next January and another increase of \$5,000 in January of 1976 would be more feasible than an immediate \$10,000 boost. The representatives of OMB and CSC have indicated consistently that they had no authority to commit the Administration on any aspect of this issue.

The Pay Problem

It is becoming increasingly difficult to attract and hold high quality people for non-career and judicial appointments, and to retain high-level experienced career people because:

- Executive, judicial and legislative pay has remained unchanged since 1969 while the cost of living has increased by 40%
- General Schedule employees pay has risen 37%
- Top steps of GS-15, most of GS-16, all of GS-17 and GS-18 and Executive Level V are at the same pay - \$36,000 (pay compression problem)



-- Annuities, being indexed to the CPI, are rising so rapidly that executives can gain more by retiring than by working.

Each passing year will worsen this situation. The long delay between increases has made the existing mechanism (quadrennial commission) inoperative because of the large increases that Congress would have to approve to catch up.

A Possible Solution

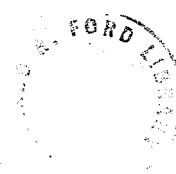
1. Set pay of GS-16, -17, and -18 by using the existing system for annual adjustment of General Schedule salaries on the basis of BLS comparability studies. This provision is already in the law, but the resulting salaries cannot take effect because they exceed the statutory pay of Executive Level V (\$36,000).
2. Abolish the quadrennial commission mechanism and substitute a law requiring that the President annually submit to Congress specific recommendations for Executive Level salaries based on a formula.
3. The formula would provide that pay of Executive Level V would be 5% greater than GS-18, and pay of the other executive levels would each be 5% greater than the next lower level.
4. The President's recommendations would take effect the succeeding January 1 unless vetoed or modified by Congress.
5. That formula would result in substantial increases because GS-18 should now be \$46,336 according to the current comparability law. Therefore, some limit would have to be placed on the size of the initial, and perhaps first few, adjustments; say \$5,000.

Administration Position

While it is not necessary for you to take a public position on this issue now, it appears that you may have to before the Congress adjourns.

Options

1. Take no public position; let Congress vote an increase, if it wishes.



3
Pro - avoids the incongruity of asking for pay raises while advocating restraint in other areas.

Con - is a passive approach to solving the pay problem.

- committee leadership may not act without assurance of your support, or may prepare unacceptable solution.

2. Take a position against any increase.

Pro - consistent with objective to restrain spending.

- is likely to be popular with news media and public.

Con - pay problem will continue to have harmful consequences for Government and will grow worse each year.

- if action is not taken in post-election session, there probably will be no action until 1977 (quadrennial commission).

3. Accept an increase only after the Congress takes the initiative.

Pro - likely to develop mutually agreeable solution to pay problem.

Con - may lead to news media and public criticism.

- will increase spending by about \$20-25 million.

4. Take a position favoring changing the mechanism, but delaying initial pay adjustments until FY 76.

Pro - likely to result in acceptable legislation creating new executive pay mechanism which will facilitate solution of the problem in the future.

- will surface the problem, but avoid criticism of inconsistency with FY 75 budget restraint.

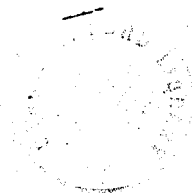
Con - pay problem will continue until FY 76.

- gap will widen between current executive pay and where it should be on comparability basis.

A plan to proceed will be developed on the basis of your decision. My recommendation is Option three.

Decision

- Option 1
- Option 2
- Option 3
- Option 4
- See me





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

NOV 27 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: ROY L. ASH /s/
SUBJECT: LEGISLATIVE, JUDICIAL AND EXECUTIVE PAY

You already have my memorandum concerning pay increases for these officials as well as one from Bob Hampton, the latter strongly urging the necessity for them. As we both know, this is very much a political, rather than a budgetary, issue.

It is clear that there will be a strong public reaction against any large increases for these officials at this time.

- In these inflationary times, when most people feel their incomes are failing to keep pace with inflation, they will resent any large increases for officials whose present salaries already look very large to the average citizen.
- As you are calling upon Congress to hold the line or cut back in many areas, it will seem inconsistent to ask for additional expenditures in this unpopular area.

We can lessen this public reaction by explaining the necessity carefully, but cannot eliminate it entirely. As I see it, we must balance the very real administrative necessities we face against the probable public reaction.

My solution to this dilemma, as my earlier memo indicated, is for you to accept increases only after the Congress takes the initiative. Beyond this, you could, of course, give the Congressional Leaders quiet assurance of your recognition of the need and of your support for reasonable increases.



Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER

- - - - -

AMENDING EXECUTIVE ORDER NO. 11768, PLACING CERTAIN POSITIONS IN LEVELS IV AND V OF THE EXECUTIVE SCHEDULE

By virtue of the authority vested in me by section 5317 of title 5 of the United States Code, as amended, section 1 of Executive Order No. 11768, of February 20, 1974, as amended, placing certain positions in level IV of the Executive Schedule, is further amended as follows:

(1) By deleting "(3) Administrator, Health Services and Mental Health Administration, Department of Health, Education, and Welfare." and inserting in lieu thereof "(3) Administrator, Health Services Administration, Department of Health, Education, and Welfare.",

(2) By deleting "(12) Deputy Under Secretary for Legislative Affairs, Department of Commerce." and inserting in lieu thereof "(12) Assistant to the Secretary for Congressional Affairs, Department of Commerce.",

(3) By deleting "(15) Commissioner General of the International Exposition on the Environment, Department of Commerce.", and inserting in lieu thereof "(15) Adviser to the Secretary (Counselor, Economic Policy Board), Department of the Treasury, to terminate effective as of March 1, 1975.", and

(4) By deleting "(16) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State."

GERALD R. FORD

THE WHITE HOUSE,
January 9, 1975

#



Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

To amend title 39, United States Code, to apply to the United States Postal Service certain provisions of law providing for Federal agency safety programs and responsibilities, to provide for cost-of-living adjustments of Federal executive salaries, and for other purposes.

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

TITLE I—POSTAL SERVICE

SEC. 101. Section 410(b) of title 39, United States Code, is amended—

- (1) by striking out the word “and” at the end of paragraph (5);
- (2) by striking out the period at the end of paragraph (6) and inserting in lieu of the period a semicolon and the word “and”; and
- (3) by adding immediately below paragraph (6) the following paragraph:

“(7) section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668).”

TITLE II—EXECUTIVE SALARIES

SEC. 201. This title may be cited as the “Executive Salary Cost-of-Living Adjustment Act”.

SEC. 202. (a) Subchapter II of chapter 53 of title 5, United States Code, relating to Executive Schedule pay rates, is amended by adding at the end thereof the following new section:

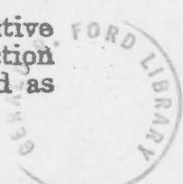
“§ 5318. Adjustments in rates of pay

“Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title in the rates of pay under the General Schedule, the annual rate of pay for positions at each level of the Executive Schedule shall be adjusted by an amount, rounded to the nearest multiple of \$100 (or if midway between multiples of \$100, to the next higher multiple of \$100), equal to the percentage of such annual rate of pay which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedule.”

(b) (1) That part of section 5312 (relating to level I of the Executive Schedule) of title 5, United States Code, immediately below the section heading and immediately above clause (1) is amended to read as follows:

“Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title.”

(2) That part of section 5313 (relating to level II of the Executive Schedule) of title 5, United States Code, immediately below the section heading and immediately above clause (1) is amended to read as follows:



"Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title."

(3) That part of section 5314 (relating to level III of the Executive Schedule) of title 5, United States Code, immediately below the section heading and immediately above clause (1) is amended to read as follows:

"Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title."

(4) That part of section 5315 (relating to level IV of the Executive Schedule) of title 5, United States Code, immediately below the section heading and immediately above clause (1) is amended to read as follows:

"Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title."

(5) That part of section 5316 (relating to level V of the Executive Schedule) of title 5, United States Code, immediately below the section heading and immediately above clause (1) is amended to read as follows:

"Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title."

(6) The analysis of subchapter II of chapter 53 of title 5, United States Code, is amended by adding the following new item at the end thereof:

"5318. Adjustments in rates of pay."

(c) (1) Subsection (a) of section 5305 of title 5, United States Code, relating to annual pay reports, is amended by adding at the end thereof the following new sentence:

"The report transmitted to the Congress under this subsection shall specify the overall percentage of the adjustment in the rates of pay under the General Schedule and of the adjustment in the rates of pay under the other statutory pay systems."

(2) Subsection (c) (1) of section 5305 of title 5, United States Code, relating to annual pay reports, is amended by adding at the end thereof the following new sentence: "The report transmitted to the Congress under this subsection shall specify the overall percentage of the adjustment in the rates of pay under the General Schedule and of the adjustment in the rates of pay under the other statutory pay systems."

SEC. 203. Section 104 of title 3, United States Code, relating to the rate of salary of the Vice President, is amended by striking out "\$62,500, to be paid monthly." and inserting in lieu thereof "the rate determined for such position under chapter 11 of title 2, as adjusted under this section. Effective at the beginning of the first month in which an adjustment takes effect under section 5305 of title 5 in the rates of pay under the General Schedule, the salary of the Vice President shall be adjusted by an amount, rounded to the nearest multiple of \$100 (or if midway between multiples of \$100, to the nearest higher multiple of \$100), equal to the percentage of such per annum rate which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5).



of the adjustment in such rates of pay. Such salary shall be paid on a monthly basis.”

SEC. 204 (a) Section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is amended to read as follows:

“SEC. 601. (a) (1) The annual rate of pay for—

“(A) each Senator, Member of the House of Representatives, and Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico,

“(B) the President pro tempore of the Senate, the majority leader and the minority leader of the Senate, and the majority leader and the minority leader of the House of Representatives, and

“(C) the Speaker of the House of Representatives,

shall be the rate determined for such positions under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by paragraph (2) of this subsection.

“(2) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, each annual rate referred to in paragraph (1) shall be adjusted by an amount, rounded to the nearest multiple of \$100 (or if midway between multiples of \$100, to the next higher multiple of \$100), equal to the percentage of such annual rate which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedule.”

(b) Subsections (a) through (d) of section 203 of the Federal Legislative Salary Act of 1964 (78 Stat. 415), relating to the annual rate of pay of certain legislative officials, are amended to read as follows:

“SEC. 203 (a) The compensation of the Comptroller General of the United States shall be at an annual rate which is equal to the rate for positions at level II of the Executive Schedule of subchapter II of chapter 53 of title 5, United States Code.

“(b) The compensation of the Deputy Comptroller General of the United States shall be at an annual rate which is equal to the rate for positions at level III of such Executive Schedule.

“(c) The compensation of the General Counsel of the United States General Accounting Office, the Librarian of Congress, and the Architect of the Capitol shall be at an annual rate which is equal to the rate for positions at level IV of such Executive Schedule.

“(d) The compensation of the Deputy Librarian of Congress and the Assistant Architect of the Capitol shall be at an annual rate which is equal to the rate for positions at level V of such Executive Schedule.”

(c) (1) Section 303 of title 44, United States Code, relating to the compensation of the Public Printer and Deputy Public Printer, is amended to read as follows:

“§ 303. Public Printer and Deputy Public Printer: pay

“The annual rate of pay for the Public Printer shall be a rate which is equal to the rate for level IV of the Executive Schedule of subchapter II of chapter 53 of title 5. The annual rate of pay for the Deputy Public Printer shall be a rate which is equal to the rate for level V of such Executive Schedule.”

(2) The item relating to section 303 in the chapter analysis for chapter 3 of title 44, United States Code, is amended to read as follows:

"303. Public Printer and Deputy Public Printer: pay."

(d) Section 4(d) of the Federal Pay Comparability Act of 1970 (84 Stat. 1952) is amended by striking out "level V" and "section 5316" and inserting in lieu thereof "level III" and "section 5314", respectively.

SEC. 205. (a) (1) Chapter 21 of title 28, United States Code, relating to general provisions applicable to courts and judges, is amended by adding at the end thereof the following new section:

"§ 461. Adjustments in certain salaries

"(a) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of title 5 in the rates of pay under the General Schedule (except as provided in subsection (b)), each salary rate which is subject to adjustment under this section shall be adjusted by an amount, rounded to the nearest multiple of \$100 (or if midway between multiples of \$100, to the next higher multiple of \$100) equal to the percentage of such salary rate which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustments in the rates of pay under such Schedule.

"(b) Subsection (a) shall not apply to the extent it would reduce the salary of any individual whose compensation may not, under section 1 of article III of the Constitution of the United States, be diminished during such individual's continuance in office."

(2) The analysis of chapter 21 of such title is amended by adding at the end thereof the following new item:

"461. Adjustments in certain salaries."

(b) (1) Section 5 of title 28, United States Code, relating to salaries of justices of the Supreme Court, is amended to read as follows:

"§ 5. Salaries of justices

"The Chief Justice and each associate justice shall each receive a salary at annual rates determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title."

(2) Section 44(d) of title 28, United States Code, relating to salaries of circuit judges, is amended to read as follows:

"(d) Each circuit judge shall receive a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title."

(3) Section 135 of title 28, United States Code, relating to salaries of district judges, is amended to read as follows:

"§ 135. Salaries of district judges

"Each judge of a district court of the United States shall receive a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title."

(4) The second sentence of section 173 of title 28, United States Code, relating to salaries of judges of the Court of Claims, is amended to read as follows: "Each shall receive a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title."

(5) The second sentence of section 213 of title 28, United States Code, relating to salaries of judges of the Court of Customs and Patent Appeals, is amended to read as follows: "Each shall receive a salary at an annual rate determined under section 225 of the Federal



Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title.”

(6) The second sentence of section 252 of title 28, United States Code, relating to judges of the Customs Court, is amended to read as follows: “Each shall receive a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title.”

(7) So much of the first sentence of section 792(b) (relating to salaries of Court of Claims commissioners) of title 28, United States Code, as precedes “, and also all necessary traveling expenses” is amended to read as follows: “Each commissioner shall receive pay at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title”.

(8) The first sentence of section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), relating to compensation of referees in bankruptcy, is amended to read as follows: “Referees shall receive as full compensation for their services salaries to be fixed by the conference, in the light of the recommendations of the councils, made after advising with the district judges of their respective circuits, and of the Director, at rates, in the case of full-time referees, not more than the rate determined for such referees under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted under section 461 of title 28, United States Code, and in the case of part-time referees, not more than one-half of such rate, as so adjusted.”

SEC. 206. (a) Section 225(f) (A) of the Federal Salary Act of 1967 (2 U.S.C. 356(A)), is amended—

(1) by inserting “the Vice President of the United States,” immediately before “Senators”;

(2) by striking out “and” immediately after “Representatives,”; and

(3) by inserting immediately before the semicolon a comma and the following: “the Speaker of the House of Representatives, the President pro tempore of the Senate, and the majority and minority leaders of the Senate and the House of Representatives”.

(b) Until such time as a change in the rate of pay of the offices referred to in the amendment made by subsection (a) of this section occurs under the provisions of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as amended by subsection (a) of this section, such rates of pay shall be the rates of pay in effect immediately prior to the date of enactment of this Act, as adjusted under sections 203 and 204 of this title.

Carl Albert

Speaker of the House of Representatives.

Walter Mondale

Vice President of the United States and

President of the Senate.

