§ 5318. Adjustments in rates of pay

(a) Subject to subsection (b), 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 5303 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 most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.

(b) In no event shall the percentage adjustment taking effect under subsection (a) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 in the rates of pay under the General Schedule.


References in Text

The General Schedule, referred to in text, is set out under section 5332 of this title.

Section 704(a)(1) of the Ethics Reform Act of 1989, referred to in subsec. (a), is section 704(a)(1) of Pub. L. 101–194, which is set out below.

Amendments

1994—Pub. L. 103–356 designated existing provisions as subsec. (a), substituted “Subject to subsection (b), effective” for “Effective”, and added subsec. (b).

1990—Pub. L. 101–509 substituted “5303” for “5305”.

1989—Pub. L. 101–194 substituted “corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect” for “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”.

Effective Date of 1994 Amendment

Section 101 of Pub. L. 103–356 provided that the amendment made by that section is effective as of Dec. 31, 1994.

Effective Date of 1990 Amendment

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of this title.

Effective Date of 1989 Amendment

Section 704(b) of Pub. L. 101–194 provided that: “This section and the amendments made by this section [amending this section, section 31 of Title 2, The Congress, section 104 of Title 3, The President, and section 461 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as a note under this section] shall take effect on January 1, 1991.”
Salary Levels of Senior Government Officials


Section 703 of Pub. L. 101–194 provided that:

“(1) Salary Levels.—

“(1) Executive positions.—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for positions in the Executive Schedule shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of $100 (or, if midway between multiples of $100, to the next higher multiple of $100).

“(2) Legislative positions; office of the vice president.—

“(A) Generally.—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for the offices and positions under subparagraphs (A) and (B) of section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356 (A) and (B)) shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of $100 (or, if midway between multiples of $100, to the next higher multiple of $100), except as provided in subparagraph (B).

“(B) Exceptions.—Nothing in subparagraph (A) shall affect the rate of basic pay for a Senator, the President pro tempore of the Senate, or the majority leader or the minority leader of the Senate.

“(3) Judicial positions.—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for the Chief Justice of the United States, an associate justice of the Supreme Court of the United States, a judge of a United States circuit court, a judge of a district court of the United States, and a judge of the United States Court of International Trade shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of $100 (or, if midway between multiples of $100, to the next higher multiple of $100).

“(b) Coordination Rule.—If a pay adjustment under subsection (a) is to be made for an office or position as of the same date as any other pay adjustment affecting such office or position, the adjustment under subsection (a) shall be made first.”

Revision in Method by Which Annual Pay Adjustments for Certain Executive, Legislative, and Judicial Positions Are To Be Made

Section 704(a) of Pub. L. 101–194 provided that:

“(a) Percent Change in the Employment Cost Index.—

“(1) Method for computing percent change in the eci.—

“(A) Definitions.—For purposes of this paragraph—

“(i) the term ‘Employment Cost Index’ or ‘ECI’ means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics; and

“(ii) the term ‘base quarter’ means the 3-month period ending on December 31 of a year.

“(B) Method.—For purposes of the provisions of law amended by paragraph (2), the ‘most recent percentage change in the ECI’, as of any date, shall be one-half of 1 percent less than the percentage (rounded to the nearest one-tenth of 1 percent) derived by—

“(i) reducing—

“(I) the ECI for the last base quarter prior to that date, by

“(II) the ECI for the second to last base quarter prior to that date,

“(ii) dividing the difference under clause (i) by the ECI for the base quarter referred to in clause (i)(II), and

“(iii) multiplying the quotient under clause (ii) by 100, except that no percentage change determined under this paragraph shall be—

“(I) less than zero; or

“(II) greater than 5 percent.

“(2) Provisions through which new method is to be implemented.—
“(A) Amendment to titles 3, 5, and 28 of the United States Code.—Section 104 of title 3, United States Code, section 5318 of title 5, United States Code, and section 461(a) of title 28, United States Code, are amended by striking ‘corresponds to’ and all that follows thereafter through the period, and inserting the following:

‘corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.’.

“(B) Amendment to the legislative reorganization act of 1946.—Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31 (2)) is amended by striking ‘corresponds to’ and all that follows thereafter through the period and inserting the following:

‘corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.’.”

Reduction of Rate of Salary or Basic Pay of Offices or Positions in the Executive, Legislative, and Judicial Branches to the Salary or Basic Pay Rate Payable as of July 14, 1983

Pub. L. 98–51, title III, § 304, July 14, 1983, 97 Stat. 279, reduced the rate of salary or basic pay prescribed by law as of July 14, 1983, for any office or position at level I, II, or III of the Executive Schedule, any Member of Congress, and certain other offices and positions in the legislative, executive, or judicial branch, or in the government of the District of Columbia and also reduced the maximum rate of salary or basic pay prescribed by law as of July 14, 1983, for certain offices and positions in the legislative, executive, or judicial branch, or in the government of the District of Columbia.

Limitation on Maximum Rate of Salary Increases for Senior Executive, Judicial, and Legislative Positions for Services Performed After December 17, 1982

Pub. L. 97–377, title I, § 129(b)–(d), Dec. 21, 1982, 96 Stat. 1914, reduced salary increases for senior executive, judicial, and legislative positions (including Members of Congress but excluding Senators) from up to 27.2 percent to 15 percent.

Fiscal Year 1983 Limitation on Use of Funds for Pay Adjustments for Certain Positions

Section 306(a), (b), and (d) of S. 2939, Ninety-seventh Congress, 2nd Session, as reported Sept. 22, 1982, made applicable by Pub. L. 97–276, § 101(e), Oct. 2, 1982, 96 Stat. 1189, as amended by Pub. L. 97–377, title I, § 129(a), Dec. 21, 1982, 96 Stat. 1914, prohibited the use of funds appropriated for the fiscal year ending Sept. 30, 1983, to pay the salary or pay of any individual in an office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeded the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for Sept. 30, 1982, if that rate was either fixed at a rate equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of this title or limited to a maximum rate equal to or greater than the rate of basic pay for such level V under section 5308 of this title or any other provision of law or congressional resolution.

Fiscal Year 1982 Limitation on Use of Funds for Pay Adjustments for Certain Positions

Section 305(a), (b), and (d) of H.R. 4120, as reported July 9, 1981, made applicable by Pub. L. 97–92, § 101(g), Dec. 15, 1981, 95 Stat. 1190, prohibited the use of funds appropriated for the fiscal year ending Sept. 30, 1982, to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeded the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for Sept. 30, 1981, if that rate was either fixed at a rate equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of this title or limited to a maximum rate equal to or greater than the rate of basic pay for such level V under section 5308 of this title or any other provision of law or congressional resolution.


Pub. L. 97–92, § 141, Dec. 15, 1981, 95 Stat. 1200, provided that nothing in 305 of H.R. 4120, made applicable by section 101(g) of Pub. L. 97–92, required that the rate of salary or basic pay, payable to any individual for or on account of services performed after Dec. 31, 1981, be limited to or reduced to an amount which was less than $59,500 for pay corresponding to the rate of basic pay for level III of the Executive Schedule under section 5314 of this title; $58,500 for pay corresponding to the rate of basic pay for level IV of the Executive Schedule under section 5315 of this title;
or $57,500 for pay corresponding to the rate of basic pay for level V of the Executive Schedule under section 5316 of this title. Any adjustment to the pay of an employee paid by the Clerk of the House was to result in pay no less than that of an employee paid by the Secretary of the Senate holding an equivalent position.

**Fiscal Year 1981 Limitation on Use of Funds for Pay Adjustments for Certain Positions**

Section 306(a), (b), and (d) of H.R. 7593, as passed the House of Representatives on July 21, 1980, made applicable by Pub. L. 96–536, § 101(c), Dec. 16, 1980, 94 Stat. 3167, as amended by Pub. L. 97–12, title IV, § 401, June 5, 1981, 95 Stat. 95, prohibited the use of funds appropriated for the fiscal year ending Sept. 30, 1981, to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeded the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for Sept. 30, 1980, if the rate of salary or basic pay for that office or position was either fixed at a rate equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of this title or limited to a maximum rate equal to or greater than the rate of basic pay for such level V under section 5308 of this title or any other provision of law or congressional resolution.

Similar provisions were contained in Pub. L. 96–369, § 101(c), Oct. 1, 1980, 94 Stat. 1352.

**Fiscal Year 1980 Limitation on Use of Funds for Pay Adjustments for Certain Positions**

Pub. L. 96–86, § 101(c), Oct. 12, 1979, 93 Stat. 657, for the fiscal year 1980, prohibited the use of funds available for payment to executive employees, including Members of Congress, entitled under existing law to approximately 12.9 percent increase in pay, to pay any such employee or official any sum in excess of 5.5 percent increase in existing pay, and such sum, if accepted, would be in lieu of the 12.9 percent due for such fiscal year.

**Fiscal Year 1979 Limitation on Use of Funds for Pay Adjustments for Certain Positions**

Pub. L. 95–429, title VI, § 613, Oct. 10, 1978, 92 Stat. 1017, prohibited the use of funds appropriated for the fiscal year ending Sept. 30, 1979, to pay the salary or pay of any individual in any office or position in the legislative, executive, or judicial branch, or in the government of the District of Columbia, at a rate which exceeded the rate (or maximum rate, if higher) of salary or basic pay payable for such office or position for Sept. 30, 1978, if the rate of salary or basic pay for such office or position was either fixed at a rate equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of this title or limited to a maximum rate equal to or greater than the rate of basic pay for such level V under section 5308 of this title or any other provision of law or congressional resolution.


1977 Comparability Adjustment Not Effective for Certain Positions

Pub. L. 95–66, July 11, 1977, 91 Stat. 270, nullified the first adjustment in pay which would have been made after July 11, 1977, under the following provisions of law: the second sentence of section 104 of Title 3, The President; par. (2) of section 31 of Title 2, The Congress; section 461 of Title 28, Judiciary and Judicial Procedure; and section 5318 of this title.

**Fiscal Year 1977 Limitation on Use of Funds for Pay Adjustments for Certain Positions**

Pub. L. 94–440, title II, § 100, Oct. 1, 1976, 90 Stat. 1446, prohibited the use of funds appropriated in any Act to pay the salary of an individual in a position or office referred to in section 356 of Title 2, The Congress, at a rate exceeding the salary rate for such position or office in effect on Sept. 30, 1976, except increases submitted by the President pursuant to sections 351 to 364 of Title 2.