



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

August 11, 1988

12 pages

OCA 2731-88

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer -

National Science Foundation-Charles Herz-357-9435
 Department of Agriculture-Marvin Shapiro-382-1516
 Department of Commerce-Michael Levitt-377-3151
 Department of Defense-Sam Brick-697-1305
 Department of Education-Jack Kristy-732-2670
 Department of Energy-Bob Rabben-586-6718
 Department of Health and Human Services-F White-245-7760
 Department of Housing and Urban Development-E. Murphy-
 755-7093

Department of the Interior-Philip Kiko-343-6706
 Department of Justice-John Bolton-633-2141
 Department of Labor-Seth Zinman-523-8201
 Department of State-Bronwyn Bachrach-647-4463
 Department of Transportation-Tom Herlihy-366-9293
 Department of the Treasury-Rick Carro-566-8523
 Veterans Administration - Donald Ivers - 233-3832
 Central Intelligence Agency
 Environmental Protection Agency-A.H. Schilling-382-5414
 General Services Administration-Al Vicchiolla-566-0563
 National Aeronautics and Space Administration-J. Murphy-
 453-1948

SUBJECT: Office of Personnel Management draft bill, "To amend title 5, United States Code, to improve the compensation for members of the Senior Executive Service, and for other purposes."

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

A response to this request for your views is needed no later than Wednesday, August 24, 1988.

Questions should be referred to Hilda Schreiber (395-7362), the legislative analyst in this office.

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

Enclosures



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

Office of the Director

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

The Office of Personnel Management submits herewith a legislative proposal, "To amend title 5, United States Code, to improve the compensation for members of the Senior Executive Service, and for other purposes." We request that this proposal be referred to the appropriate committee for early consideration.

On April 10, 1987, President Reagan established the President's Commission on Compensation of Career Federal Executives. That Commission, in its report this year, has recommended several changes in the laws governing compensation for the Senior Executive Service (SES). (A copy of the Commission's report, explaining these changes, is enclosed.) This legislative proposal would implement several of these changes.

At the outset, it should be noted that this proposal does not increase basic pay for the SES. The Compensation Commission recommended substantial increases in SES pay, both in absolute terms and in relation to the pay rates for the Government's senior elective and appointive officials. While we believe the Government's pay rates for its high-level officials are seriously inadequate, we do not think career executive pay should be decoupled from political executive pay, an action which would result in career senior executives, as a general rule, being paid more than the Executive Schedule appointees to whom they report. In our view, it is vitally important to attract highly qualified political leadership, as well as competent senior career executives. A policy which strengthens career, but not political, executive pay would likely undermine the stature and authority of Presidential appointees and provide a disincentive to their accepting such appointments. Therefore, in our view, the next Quadrennial Commission should consider pay increases large enough to accommodate an SES increase of some magnitude, while retaining the current relationship between the SES and the Executive Schedule.

However, with respect to the Compensation Commission's other legislative recommendations, we believe the case is clear that action should be taken immediately.

Honorable George Bush

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First, the Commission has recommended that the SES bonus pool be increased from 3 percent to 10 percent of the aggregate career SES payroll, and that four-tenths of this expanded pool be available for the payment of recruitment and retention bonuses to help agencies compete in the labor market for scarce executive talent. Such bonuses would also be useful in encouraging SES members to relocate to high-cost areas.

Second, the Commission recommended that SES Presidential Rank Awards be increased in value. The dollar amount of these awards was set by statute in 1978, at \$20,000 for the Distinguished Executive Award and \$10,000 for the Meritorious Executive Award. Since that time, inflation has eroded the value of those awards. Accordingly, the Commission recommended that these awards be set equal to 40 percent and 20 percent, respectively, of the highest SES pay rate. Under the current SES pay schedule, this change would increase the Rank Awards to \$31,000 and \$15,500, respectively, and these amounts would increase automatically in the future whenever SES pay increases.

Third, the Commission recommended eliminating the current provision of law that limits the aggregate compensation any SES member can receive in any fiscal year to the rate for level I of the Executive Schedule, now \$99,500. Since fiscal year 1985, SES members whose compensation has reached this ceiling have been permitted to carry forward the excess and be paid it in a subsequent fiscal year, so eliminating this ceiling would really only permit the earlier payment of amounts that would be paid anyway, thus simplifying the administration of SES pay.

Fourth, the Commission recommended changing the current provisions of law concerning SES annual leave accumulation. Under current law, SES members may accumulate leave without limit, carrying it over from year to year until they separate from the Government, at which time they receive a lump-sum payment for the unused leave. The Commission recommended that SES members be permitted to receive each year a lump-sum payment for annual leave they have accumulated over 120 hours, thus permitting them to receive this payment as current rather than deferred compensation.

The enclosed bill would accomplish those four recommendations, and we urge its enactment. We believe that these four changes will make SES compensation significantly more attractive, and will be very helpful in enabling the Government to recruit and retain a Senior Executive Service of the highest caliber.

Honorable George Bush

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The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this proposal.

A similar letter is being sent to the President of the Senate.

Sincerely, -

Constance Horner
Director

Enclosures

A BILL

To amend title 5, United States Code, to improve the compensation for members of the Senior Executive Service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Senior Executive Service Compensation Amendments of 1988".

Sec. 2. Section 4507(e) of title 5, United States Code, is amended--

(1) in paragraph (1), by striking out "of \$10,000" and inserting in lieu thereof "equal to 20 percent of the maximum rate paid under section 5382 of this title, rounded to the next higher \$100"; and

(2) in paragraph (2), by striking out "of \$20,000" and inserting in lieu thereof "equal to 40 percent of the maximum rate paid under section 5382 of this title, rounded to the next higher \$100".

Sec. 3. Section 5383 of title 5, United States Code, is amended by striking out subsection (b), and by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

Sec. 4. (a) Section 5384 of title 5, United States Code, is amended to read as follows:

"§5384. Performance, recruitment, and retention awards in
the Senior Executive Service

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"(a)(1) To encourage excellence in performance by career appointees and to aid in the recruitment and retention of career appointees with exceptional qualifications or for difficult-to-fill positions, awards shall be paid to career appointees in accordance with the provisions of this section.

"(2) Such awards shall be paid in a lump sum and shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 4507 of this title.

"(b)(1) No award under this section shall be paid to any career appointee whose performance was determined to be less than fully successful at the time of the appointee's most recent performance appraisal and rating under subchapter II of chapter 43 of this title.

"(2) The amount of an award under this section shall be determined by the agency head but may not be less than 5 percent nor more than 20 percent of the career appointee's rate of basic pay. A career appointee may be paid both a performance award and a recruitment or retention award in the same fiscal year.

"(3) The aggregate amount of awards paid under this section by an agency during any fiscal year may not exceed the greater of--

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"(A) an amount equal to 10 percent of the aggregate amount of basic pay paid to career appointees in such agency during the preceding fiscal year; or

"(B) an amount equal to 15 percent of the average of the annual rates of basic pay paid to career appointees in such agency during the preceding fiscal year.

"(4) Of the amount determined under paragraph (3) of this subsection, an agency may pay not to exceed four-tenths in recruitment or retention awards in accordance with subsection (d) of this section.

"(c) Awards paid by any agency under this section on the basis of performance shall be based on recommendations by performance review boards established by such agency under section 4314 of this title.

"(d)(1) In order to recruit or retain a career appointee with exceptional qualifications or for employment in a difficult-to-fill position, an agency may pay an award to such appointee in accordance with such criteria and guidelines as the Office of Personnel Management may provide.

"(2) An award may be paid to a career appointee under this subsection only if the career appointee enters into a service agreement with the agency under which the career appointee agrees to complete one year of service with the agency. If the career appointee voluntarily, or because of

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misconduct, fails to complete the year of service, the career appointee shall be required to repay the full amount of this award, unless the head of the agency determines that such repayment should be waived, in whole or in part, because of extenuating circumstances beyond the control of the career appointee. If the career appointee is separated involuntarily by the agency, other than for misconduct, before the year of service is completed, no repayment may be required.

"(e) The Office of Personnel Management may issue guidance to agencies concerning the proportion of Senior Executive Service salary expenses that may be appropriately applied to payment of awards and the distribution of awards."

(b) The item relating to section 5384 in the analysis for chapter 53 of title 5, United States Code, is amended to read as follows:

"5384. Performance, recruitment, and retention awards in
the Senior Executive Service."

Sec. 5. (a) Subchapter VI of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new sections:

"5553. Lump-sum payment for accumulated and accrued leave
for members of the Senior Executive Service

"A member of the Senior Executive Service is entitled to receive a lump-sum payment for all or any portion of any

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accumulated and current accrued annual leave to such member's credit in excess of 120 hours, if the member applies to receive such payment during an annual application period to be prescribed by the Office of Personnel Management for such purpose.

"5554. Regulations

"The Office of Personnel Management may prescribe regulations necessary for the administration of this subchapter."

(b) The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5552 the following new items:

"5553. Lump-sum payment for accumulated and accrued leave for members of the Senior Executive Service.

"5554. Regulations."

Sec. 6. (a) The amendments made by this Act shall take effect on October 1, 1988, but any authority to make payments under any amendment made by this Act shall be effective only to such extent or in such amounts as are provided for in advance by appropriation Acts.

(b) The Office of Personnel Management may prescribe regulations limiting the number of hours of annual leave for which a member of the Senior Executive Service may receive a

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lump-sum payment each year. Such regulations shall remain in effect until such date as the Office may provide, but not later than September 30, 1993.

SECTION ANALYSIS

to accompany a bill

To amend title 5, United States Code, to improve the compensation for members of the Senior Executive Service, and for other purposes.

The first section of the bill provides a short title, the "Senior Executive Service Compensation Amendments of 1988."

Section 2 amends section 4507 of title 5, United States Code, to increase the value of Presidential Rank Awards. The value of Meritorious Executive Awards would be increased from \$10,000 to 20 percent of the maximum SES pay rate, rounded to the next higher \$100. (Under current SES rates, the resultant amount would be \$15,500.) The value of Distinguished Executive Awards would be increased from \$20,000 to 40 percent of the maximum SES pay rate, rounded to the next higher \$100. (Under current SES rates, the resultant award would be \$31,000.)

Section 3 would repeal subsection (b) of section 5383 of title 5, United States Code, eliminating the Executive Schedule level I limitation on aggregate compensation for SES members.

Section 4 would amend section 5384 of title 5, United States Code, concerning SES performance awards. In addition to performance-based awards, agencies would be permitted to pay awards to SES career appointees with exceptional qualifications or for difficult-to-fill positions, in accordance with criteria and guidelines issued by the Office of Personnel Management. Such an award might also, for instance, be paid to encourage an SES member to relocate. A recipient of a recruitment or retention award would have to agree to serve for at least a year. If he or she failed to do so, the award would have to be repaid unless the agency waived repayment because of extenuating circumstances.

Section 4 would also increase the funds available for SES awards from 3 percent of each agency's career SES payroll to 10 percent. Up to four-tenths of this increased award pool would be available for recruitment or retention awards.

Section 5 of the bill would add a new section 5553 to title 5, United States Code. This new section would permit SES members to apply for and receive each year a lump-sum payment for all or any part of the annual leave to their credit in excess of 120 hours.

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This election would be made during an annual election period to be established by the Office of Personnel Management. Section 5 would also add a new section 5554, permitting the Office to issue regulations on lump-sum payments for unused annual leave, under the new section 5553 and under current law, where no regulatory authority currently exists.

Section 6 of the bill would provide that the bill's provisions would be effective on October 1, 1988, but only to the extent funds are otherwise available. The Office of Personnel Management would be permitted to issue regulations limiting lump-sum payments for annual leave for the first five years after enactment.