

1994—Subsec. (b)(4). Pub. L. 103–236 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The total amount of basic salary plus performance pay received in any fiscal year by any member of the Senior Foreign Service may not exceed the salary payable for level I of the Executive Schedule under section 5312 of title 5 as in effect at the end of that fiscal year. Any amount which is not paid to a member of the Senior Foreign Service during a fiscal year because of this limitation shall be paid to that individual in a lump sum at the beginning of the following fiscal year. Any amount paid under this authority during a fiscal year shall be taken into account for purposes of applying the limitation in the first sentence of this subparagraph with respect to such fiscal year.”

1987—Subsec. (b)(4), (5). Pub. L. 100–204 inserted at end of par. (4) “Any amount which is not paid to a member of the Senior Foreign Service during a fiscal year because of this limitation shall be paid to that individual in a lump sum at the beginning of the following fiscal year. Any amount paid under this authority during a fiscal year shall be taken into account for purposes of applying the limitation in the first sentence of this subparagraph with respect to such fiscal year.” and added par. (5).

#### **Statutory Notes and Related Subsidiaries**

##### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–228, div. A, title III, §312(b), Sept. 30, 2002, 116 Stat. 1378, provided that: “The amendment made by subsection (a) [amending this section] shall take effect October 1, 2002.”

##### SENIOR FOREIGN SERVICE PERFORMANCE PAY

Pub. L. 103–236, title I, §173(a)–(c), Apr. 30, 1994, 108 Stat. 412, as amended by Pub. L. 103–415, §1(gg), Oct. 25, 1994, 108 Stat. 4303, provided that:

“(a) PROHIBITION ON AWARDS.—Notwithstanding any other provision of law, the Secretary of State may not award or pay performance payments for fiscal years 1994 and 1995 under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965), unless the Secretary awards or pays performance awards to other Federal employees for such fiscal years.

“(b) AWARDS IN SUBSEQUENT FISCAL YEARS.—The Secretary may not make a performance award or payment in any fiscal year after a fiscal year referred to in subsection (a) for the purpose of providing an individual with a performance award or payment to which the individual would otherwise have been entitled in a fiscal year referred to in such subsection but for the prohibition described in such subsection.

“(c) APPLICATION TO USIA, AID, AND ACDA.—Subsections (a) and (b) shall apply to the United States Information Agency, the Agency for International Development, and the United States Arms Control and Disarmament Agency in the same manner as such subsections apply to the Department of State, except that the Director of the United States Information Agency, the Administrator of the Agency for International Development, and the Director of the United States Arms Control and Disarmament Agency shall be subject to the limitations and authority of the Secretary of State under subsections (a) and (b) for their respective agencies.”

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title, and for abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of this title.]

##### REVIEW OF PERFORMANCE PAY PROGRAMS

Pub. L. 100–204, title I, §175(a), Dec. 22, 1987, 101 Stat. 1361, provided that:

“(1) SUSPENSION OF AWARDS DURING REVIEW.—During the period beginning on the date of enactment of this

Act [Dec. 22, 1987], and ending on the date on which the Inspector General of the Department of State reports to the Congress pursuant to paragraph (2), performance pay may not be awarded under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) to any member of the Senior Foreign Service in the Department of State.

“(2) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of State shall conduct a complete and thorough review of—

“(A) the procedures in the Department of State under which performance pay recipients are chosen to determine whether the procedures and award determinations are free from bias and reflect fair standards; and

“(B) the adequacy of the criteria and the equity of the criteria actually applied in making those awards. The review should be conducted in accordance with generally accepted Government auditing standards. The Inspector General shall report the results of this review to the Secretary of State and to the Congress no later than May 1, 1988.

“(3) REPORT BY SECRETARY OF STATE.—No later than 60 days after the report of the Inspector General is submitted to the Secretary of State under paragraph (2), the Secretary shall submit to the Congress a report containing the comments of the Secretary on the report of the Inspector General and describing the actions taken and proposed to be taken by the Secretary as a result of the report.”

#### **§ 3966. Within-class salary increases**

##### (a) Time period; limitation

Any member of the Service receiving a salary under the Foreign Service Schedule shall be advanced to the next higher salary step in the member's class at the beginning of the first applicable pay period following the completion by that member of a period of—

(1) 52 calendar weeks of service in each of salary steps 1 through 9, and

(2) 104 calendar weeks of service in each of salary steps 10 through 13,

unless the performance of the member during that period is found in a review by a selection board established under section 4002 of this title to fall below the standards of performance for his or her salary class.

##### (b) Additional increase for meritorious service

The Secretary may grant, on the basis of especially meritorious service, to any member of the Service receiving an increase in salary under subsection (a), an additional salary increase to any higher step in the salary class in which the member is serving.

(Pub. L. 96–465, title I, §406, Oct. 17, 1980, 94 Stat. 2089.)

#### **§ 3967. Salaries for Foreign Service personnel abroad who perform routine duties**

(a) The Secretary may establish salary rates at rates lower than those established for the Foreign Service Schedule for the Foreign Service personnel described in subsection (b). The rates established under this subsection may be no less than the then applicable minimum wage rate specified in section 206(a)(1) of title 29.

(b) The Secretary may pay Foreign Service personnel who are recruited abroad, who are not available or are not qualified for assignment to another Foreign Service post, and who perform duties of a more routine nature than are gen-