

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3076.	Sept. 26, 1961, Pub. L. 87-304, § 6, 75 Stat. 664.

In subsection (b), the last sentence of former section 3076, which provided for the issuance of the regulations not later than December 25, 1961, and the effective date of the regulations as not later than March 25, 1962, is omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1968—Subsec. (b). Pub. L. 90-623 inserted reference to the District of Columbia Council, with respect to the government of the District of Columbia.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

TRANSFER OF FUNCTIONS

District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, and replaced by Council of District of Columbia, as provided by section 401 of Pub. L. 93-198.

EX. ORD. NO. 10982. ADMINISTRATION OF PROVISIONS OF CHAPTER

Ex. Ord. No. 10982, Dec. 25, 1961, 27 F.R. 3, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12748, Feb. 1, 1991, 56 F.R. 4521, provided:

By virtue of the authority vested in me by the act of September 26, 1961 (75 Stat. 662) [this subchapter] and by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. As used in this order:

(a) The term “the act” means the act of September 26, 1961 (Public Law 87-304), 75 Stat. 662 [now this subchapter].

(b) The term “Federal agency” means any executive department of the Government of the United States of America, any agency or independent establishment in the executive branch of the Government, and any corporation wholly owned or controlled by the Government.

(c) The term “foreign area” means any area (including the Trust Territory of the Pacific Islands) situated outside (1) the United States (including the District of Columbia), (2) the Commonwealth of Puerto Rico, (3) the Canal Zone, and (4) any territory or possession of the United States.

SEC. 2. (a) Except as otherwise provided by section 2(b) and section 3(c) of this order, the Secretary of State in respect of civilian employees of Federal agencies who are located in foreign areas immediately prior to an emergency evacuation, and the Office of Personnel Management in respect of all other civilian employees of Federal agencies, are hereby designated and empowered, without the approval, ratification, or other action of the President, to perform the functions conferred upon the President by section 3(a), section 3(b), and section 6(a) of the act [sections 5523(a), 5523(b), and 5527(a) of this title].

(b) The Office of Personnel Management is hereby designated and empowered to perform the functions conferred upon the President by the provisions of section 5527 of title 5, United States Code, with respect to allotments and assignments authorized by section 5525 of title 5, United States Code, and advance payments to new appointees authorized by section 5524a of title 5,

United States Code, as added by section 107(a) of the Federal Employees Pay Comparability Act of 1990, as incorporated in section 529 of Public Law 101-509.

SEC. 3. The following regulations are hereby prescribed as necessary and appropriate to carry out the provisions, accomplish the purposes, and govern the administration of the act:

(a) To the maximum extent practicable, the Secretary of State, the Office of Personnel Management, and the heads of other Federal agencies shall exercise their authority under the act and this order so that employees of different Federal agencies evacuated from the same geographic area under the same general circumstances may be treated uniformly.

(b) Advance payments of compensation, allowances, and differentials, as authorized by section 2 of the act [section 5522 of this title], shall be held to the minimum period during which the order for evacuation is anticipated to continue, and shall in no event be made for a period of more than thirty days.

(c) It is hereby determined to be in the interest of the United States that payments of monetary amounts as authorized by section 3 of the act [section 5523 of this title] to and for the account of an employee whose evacuation is ordered and who is prevented from performing the duties of his position, under the circumstances set forth in section 3 of the act, should be extended beyond sixty days for not more than one hundred and twenty additional days only upon determination, pursuant to regulations of the head of the Federal agency concerned, that such additional payments are reasonably necessary to maintain a civilian staff available for performance of duty. Such payments of monetary amounts under the authority of section 3 of the act shall be terminated as of such dates as may be determined by the Secretary of State or the Office of Personnel Management, as appropriate, but not later than the date on which an employee resumes his duties at the post from which he has been evacuated or is assigned to another position.

SEC. 4. (a) The head of each Federal agency shall issue as soon as practicable such regulations as may be necessary and appropriate to carry out his functions under the act and this order.

(b) In order to coordinate the policies and procedures of the executive branch of the Government, all regulations of any Federal agency prepared for issuance under the provisions of section 6(c) of the act [section 5527(c) of this title] and section 4(a) of this order shall be submitted for prior approval to the Secretary of State, or to the Office of Personnel Management, as may be appropriate, under section 2 of this order. The Secretary of State and the Office of Personnel Management shall review such regulations for conformance with the purpose and intent of the act and of the regulations contained in section 3 of this order. No Federal agency shall make any payment under the provisions of the act or this order until such regulations have been approved by the Secretary of State, or the Office of Personnel Management, as appropriate.

SUBCHAPTER IV—DUAL PAY AND DUAL EMPLOYMENT

§ 5531. Definitions

For the purpose of section 5533 of this title—

(1) “member” has the meaning given such term by section 101(23) of title 37;

(2) “position” means a civilian office or position (including a temporary, part-time, or intermittent position), appointive or elective, in the legislative, executive, or judicial branch of the Government of the United States (including a Government corporation and a non-appropriated fund instrumentality under the jurisdiction of the armed forces) or in the government of the District of Columbia;

(3) “retired or retainer pay” means retired pay, as defined in section 8311(3) of this title,

determined without regard to subparagraphs (B) through (D) of such section 8311(3); except that such term does not include an annuity payable to an eligible beneficiary of a member or former member of a uniformed service under chapter 73 of title 10;

(4) "agency in the legislative branch" means the Government Accountability Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Office of the Architect of the Capitol, the United States Botanic Garden, the Congressional Budget Office, and the United States Capitol Police;

(5) "employee of the House of Representatives" means a congressional employee whose pay is disbursed by the Chief Administrative Officer of the House of Representatives;

(6) "employee of the Senate" means a congressional employee whose pay is disbursed by the Secretary of the Senate; and

(7) "congressional employee" has the meaning given that term by section 2107 of this title, excluding an employee of an agency in the legislative branch.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 482; Pub. L. 95-454, title III, §308(b), Oct. 13, 1978, 92 Stat. 1150; Pub. L. 102-190, div. A, title VI, §655(a)(2), Dec. 5, 1991, 105 Stat. 1391; Pub. L. 104-186, title II, §215(6), Aug. 20, 1996, 110 Stat. 1745; Pub. L. 106-398, §1 [[div. A], title X, §1087(f)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-293; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 111-145, §7(b)(1), Mar. 4, 2010, 124 Stat. 55.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 3101 (as applicable to 5 U.S.C. 3102(a)-(e) and 3105 (less (e))).	Aug. 19, 1964, Pub. L. 88-448, §101 (as applicable to §§201(a)-(e) and 301 (less (e))), 78 Stat. 484.

In paragraph (2), the defined word "position" is substituted for "civilian office." The words "Government corporation" are substituted for "corporation owned or controlled by such Government" in view of the definition in section 103.

The definitions of "uniformed services" and "armed forces" are omitted as unnecessary in view of the definitions in section 2101.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2010—Par. (4). Pub. L. 111-145 substituted "the Congressional Budget Office, and the United States Capitol Police" for "and the Congressional Budget Office".

2004—Par. (4). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

2000—Pub. L. 106-398 substituted "section" for "sections 5532 and" in introductory provisions.

1996—Par. (5). Pub. L. 104-186 substituted "Chief Administrative Officer" for "Clerk".

1991—Pars. (4) to (7). Pub. L. 102-190 added pars. (4) to (7).

1978—Pub. L. 95-454 substituted "member" for "officer" in par. (1) and added par. (3).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-145 effective as though enacted as part of section 1018 of Pub. L. 108-7, see section

7(d) of Pub. L. 111-145, set out as a note under section 2107 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

DUAL PAY REQUIREMENTS FOR PAY PERIODS SUBSEQUENT TO ENACTMENT OF CIVIL SERVICE ACT OF 1978

Pub. L. 95-454, title III, §308(g), Oct. 13, 1978, 92 Stat. 1151, provided that:

"(1) Except as provided in paragraph (2) of this subsection, the amendments made by this section [amending this section and section 5532 of this title] shall apply only with respect to pay periods beginning after the effective date of this Act [see Effective Date note set out under section 1101 of this title] and only with respect to members of the uniformed services who first receive retired or retainer pay (as defined in section 5531(3) of title 5, United States Code (as amended by this section)), after the effective date of this Act.

"(2) Such amendments shall not apply to any individual employed in a position on the date of the enactment of this Act [Oct. 13, 1978] so long as the individual continues to hold any such position (disregarding any break in service of 3 days or less) if the individual, on that date, would have been entitled to retired or retainer pay but for the fact the individual does not satisfy any applicable age requirement.

"(3) The provisions of section 5532 of title 5, United States Code, as in effect immediately before the effective date of this Act, shall apply with respect to any retired officer of a regular component of the uniformed services who is receiving retired pay on or before such date, or any individual to whom paragraph (2) applies, in the same manner and to the same extent as if the preceding subsections of this section had not been enacted."

[§ 5532. Repealed. Pub. L. 106-65, div. A, title VI, § 651(a)(1), Oct. 5, 1999, 113 Stat. 664]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 482; Pub. L. 95-454, title III, §308(a), (c)-(f)(1), Oct. 13, 1978, 92 Stat. 1149-1151; Pub. L. 97-276, §151(b), Oct. 2, 1982, 96 Stat. 1200; Pub. L. 98-396, title III, §306, Aug. 22, 1984, 98 Stat. 1424; Pub. L. 98-525, title XV, §1537(b), Oct. 19, 1984, 98 Stat. 2635; Pub. L. 99-88, title I, §100, Aug. 15, 1985, 99 Stat. 351; Pub. L. 99-500, §101(l), Oct. 18, 1986, 100 Stat. 1783-308, and Pub. L. 99-591, §101(l), Oct. 30, 1986, 100 Stat. 3341-308; Pub. L. 100-202, §§101(l) [title I, §101], 106, Dec. 22, 1987, 101 Stat. 1329-358, 1329-362, 1329-433; Pub. L. 100-457, title I, Sept. 30, 1988, 102 Stat. 2129; Pub. L. 101-509, title V, §529 [title I, §108(a)], Nov. 5, 1990, 104 Stat. 1427, 1449; Pub. L. 101-510, div. A, title XII, §1206(j)(1), Nov. 5, 1990, 104 Stat. 1663; Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-190, div. A, title VI, §655(a)(1), Dec. 5, 1991, 105 Stat. 1390; Pub. L. 102-378, §8(a), Oct. 2, 1992, 106 Stat. 1359; Pub. L. 105-55, title I, §107, Oct. 7, 1997, 111 Stat. 1184, related to employment of retired members of uniformed services and reduction in retired or retainer pay.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1999, see section 651(c) of Pub. L. 106-65, set out as an Effective Date of 1999 Amendment note under section 1466 of Title 10, Armed Forces.

§ 5533. Dual pay from more than one position; limitations; exceptions

(a) Except as provided by subsections (b), (c), and (d) of this section, an individual is not entitled to receive basic pay from more than one position for more than an aggregate of 40 hours of work in one calendar week (Sunday through Saturday).

(b) Except as otherwise provided by subsection (c) of this section, the Office of Personnel Man-

agement, subject to the supervision and control of the President, may prescribe regulations under which exceptions may be made to the restrictions in subsection (a) of this section when appropriate authority determines that the exceptions are warranted because personal services otherwise cannot be readily obtained.

(c)(1) Unless otherwise authorized by law and except as otherwise provided by paragraph (2) or (4) of this subsection, appropriated funds are not available for payment to an individual of pay from more than one position if the pay of one of the positions is paid by the Secretary of the Senate, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police, or one of the positions is under the Office of the Architect of the Capitol, and if the aggregate gross pay from the positions exceeds \$7,724 a year (\$10,540, in the case of pay disbursed by the Secretary of the Senate).

(2) Notwithstanding paragraph (1) of this subsection, appropriated funds are not available for payment to an individual of pay from more than one position, for each of which the pay is disbursed by the Chief Administrative Officer of the House of Representatives or the Chief of the Capitol Police, if the aggregate gross pay from those positions exceeds the maximum per annum gross rate of pay authorized to be paid to an employee out of the clerk hire allowance of a Member of the House.

(3) For the purposes of this subsection, "gross pay" means the annual rate of pay (or equivalent thereof in the case of an individual paid on other than an annual basis) received by an individual.

(4) Paragraph (1) of this subsection does not apply to pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same day.

(d) Subsection (a) of this section does not apply to—

(1) pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same hours of the same day;

(2) pay consisting of fees paid on other than a time basis;

(3) pay received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period;

(4) pay paid by the Tennessee Valley Authority to an employee performing part-time or intermittent work in addition to his normal duties when the Authority considers it to be in the interest of efficiency and economy;

(5) pay received by an individual holding a position—

- (A) the pay of which is paid by the Secretary of the Senate, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police; or
- (B) under the Architect of the Capitol;

(6) pay paid by the United States Coast Guard to an employee occupying a part-time position of lamplighter; and

(7) pay within the purview of any of the following statutes:

- (A) section 162 of title 2;

- (B) section 23(b) of title 13;
- (C) section 327 of title 15;
- (D) section 907 of title 20;
- (E) section 873 of title 33; or
- (F) section 631 or 631a of title 31, District of Columbia Code.

[(G) Repealed. Pub. L. 96-70, title III, § 3302(e)(8), Sept. 27, 1979, 93 Stat. 498.]

(e)(1) This section does not apply to an individual employed under sections 174j-1 to 174j-7 or 174k¹ of title 40.

(2) Subsection (c) of this section does not apply to pay received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 483; Pub. L. 90-57, §105(h), July 28, 1967, 81 Stat. 143; Pub. L. 90-206, title II, §214(o), Dec. 16, 1967, 81 Stat. 637; Pub. L. 91-510, title IV, §477(d), Oct. 26, 1970, 84 Stat. 1195; Pub. L. 93-140, §23, Oct. 26, 1973, 87 Stat. 508; Pub. L. 93-145, §101, Nov. 1, 1973, 87 Stat. 532; Pub. L. 94-183, §2(21), Dec. 31, 1975, 89 Stat. 1058; Pub. L. 94-440, title I, §103, Oct. 1, 1976, 90 Stat. 1443; Pub. L. 95-454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-70, title III, §3302(e)(8), Sept. 27, 1979, 93 Stat. 498; Pub. L. 104-186, title II, §215(7), Aug. 20, 1996, 110 Stat. 1745; Pub. L. 111-145, §7(b)(2), Mar. 4, 2010, 124 Stat. 55.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 3105 (less (e)).	Aug. 19, 1964, Pub. L. 88-448, §301 (less (e)), 78 Stat. 488.

In subsection (a), the words "an individual" are substituted for "civilian personnel".

In subsection (b), the words "and issue" are omitted as surplusage.

In subsection (c), the words "appropriated funds are not" are substituted for "no funds appropriated by any Act shall be". The words "\$2,000 a year" are substituted for "the sum of \$2,000 per annum".

In subsection (d)(7)(D), reference to "section 907 of title 20" is substituted for 5 U.S.C. 3105(d)(7)(F) to reflect the scheduled transfer of 5 U.S.C. 2358(b) to title 20.

In subsection (d)(7)(H), the words "of chapter 7" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Sections 174j-1, 174j-3, 174j-4, 174j-5, 174j-6, 174j-7, and 174k of title 40, referred to in subsec. (e)(1), were transferred to sections 2042, 2043, 2044, 2045, 2046, 2047, and 2041, respectively, of Title 2, The Congress. Section 174j-2 of title 40 was repealed by Pub. L. 107-217, §6(b), Aug. 21, 2002, 116 Stat. 1304.

AMENDMENTS

2010—Subsec. (c)(1). Pub. L. 111-145, §7(b)(2)(A)(i), substituted ", the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police" for "or the Chief Administrative Officer of the House of Representatives".

Subsec. (c)(2). Pub. L. 111-145, §7(b)(2)(A)(ii), inserted "or the Chief of the Capitol Police" after "House of Representatives".

¹ See References in Text note below.

Subsec. (d)(5)(A). Pub. L. 111-145, §7(b)(2)(B), substituted “, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police” for “or the Chief Administrative Officer of the House of Representatives”.

1996—Subsecs. (c)(1), (2), (d)(5)(A). Pub. L. 104-186 substituted “Chief Administrative Officer” for “Clerk”.

1979—Subsec. (d)(7). Pub. L. 96-70 struck out subpar. (G) which made reference to section 102 of title 2, Canal Zone Code.

1978—Subsec. (b). Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission”.

1976—Subsec. (c)(1). Pub. L. 94-440 inserted “(\$10,540, in the case of pay disbursed by the Secretary of the Senate)” after “exceeds \$7,724 a year”.

1975—Subsec. (d)(7). Pub. L. 94-183 struck out subpar. (F) relating to section 3335 (a) or (c) of title 39, and redesignated subpars. (G) and (H) as (F) and (G), respectively.

1973—Subsec. (c)(1), (4). Pub. L. 93-145 inserted reference to par. (4) in par. (1) and added par. (4).

Subsec. (e). Pub. L. 93-140 designated existing provisions as par. (1) and added par. (2).

1970—Subsec. (c)(1). Pub. L. 91-510 inserted “and except as otherwise provided by paragraph (2) of this section” after “authorized by law” and substituted “if the aggregate gross pay from the positions exceeds \$7,724 a year” for “if—

“(A) the pay of one or more of the positions is fixed at a single gross per annum rate, and the aggregate gross pay from the positions exceeds \$6,256 a year, or

“(B) the pay of each such position is fixed at a basic rate plus additional compensation authorized by law, and the aggregate basic pay of the positions exceeds \$2,000 a year”.

Subsec. (c)(2). Pub. L. 91-510 substituted provision making appropriated funds unavailable for payment to an individual of pay from more than one position, for each of which pay is disbursed by the Clerk of the House, if the aggregate gross pay from those positions exceeds the maximum per annum gross rate of pay authorized to be paid to an employee out of clerk hire allowance of a Member of the House for definition of “gross pay”, now incorporated in cl. (3).

Subsec. (c)(3). Pub. L. 91-510 redesignated former cl. (2) as (3) and deleted provision which included in gross pay of an individual receiving basic pay plus additional compensation provided by law the aggregate amount received as basic and additional compensation, but excluded sums received as premium pay under subchapter V of this chapter.

1967—Subsec. (c). Pub. L. 90-206 provided for an increase in the aggregate gross pay allowed to certain specified congressional employees on two payrolls as dual office compensation.

Pub. L. 90-57 designated existing dual pay limitation provisions relating to basic compensation as par. (1), redesignated cls. (1) and (2) as (A) and (B), eliminated from cl. (A) provision for pay for one of the positions by the Secretary of the Senate and restricted such cl. (A) to payments in case of employees receiving basic rates of compensation and added par. (2) dual pay limitations applicable to aggregate gross compensation of employees receiving single per annum rates of compensation.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-145 effective as though enacted as part of section 1018 of Pub. L. 108-7, see section 7(d) of Pub. L. 111-145, set out as a note under section 2107 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96-70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-510 effective immediately prior to noon on Jan. 3, 1971, see section 601(1) of Pub. L. 91-510, set out as a note under section 72a of Title 2, The Congress.

EFFECTIVE DATE OF 1967 AMENDMENTS

Amendment by Pub. L. 90-206 effective at beginning of first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90-206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

Amendment by Pub. L. 90-57, effective Aug. 1, 1967, see section 105(k) of Pub. L. 90-57, set out as an Effective Date note under section 61-1 of Title 2, The Congress.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

INCREASE IN COMPENSATION OF INDIVIDUALS WHOSE PAY IS DISBURSED BY SECRETARY OF SENATE

2010—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2010, to the figure “\$33,003”, see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 5, 2010, set out as a note under section 60a-1 of Title 2, The Congress.

2009—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2009, to the figure “\$32,515”, see section 9 of Salary Directive of President pro tempore of the Senate, Mar. 12, 2009, set out as a note under section 60a-1 of Title 2, The Congress.

2008—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2008, to the figure “\$31,906”, see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 7, 2008, set out as a note under section 60a-1 of Title 2, The Congress.

2007—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2007, to the figure “\$30,827”, see section 9 of Salary Directive of President pro tempore of the Senate, Feb. 16, 2007, formerly set out as a note under section 60a-1 of Title 2.

2006—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2006, to the figure “\$29,905”, see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 4, 2006, formerly set out as a note under section 60a-1 of Title 2.

2005—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2005, to the figure “\$29,289”, see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 3, 2005, formerly set out as a note under section 60a-1 of Title 2.

2004—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2004, to the figure “\$28,574”, see section 9 of Salary Directive of President pro tempore of the Senate, Mar. 5, 2004, formerly set out as a note under section 60a-1 of Title 2.

2003—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2003, to the figure “\$27,822”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 19, 2002, as amended, formerly set out as a note under section 60a-1 of Title 2.

2002—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2002, to the figure “\$26,985”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 2001, formerly set out as a note under section 60a-1 of Title 2.

2001—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2001, to the figure “\$26,329”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 2000, formerly set out as a note under section 60a-1 of Title 2.

2000—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 2000, to the figure “\$25,362”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 12, 1999, formerly set out as a note under section 60a-1 of Title 2.

1999—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1999, to the figure “\$24,433”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 16, 1998, formerly set out as a note under section 60a-1 of Title 2.

1998—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1998, to the figure “\$23,698”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 19, 1997, formerly set out as a note under section 60a-1 of Title 2.

1997—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1997, to the figure “\$23,165”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 18, 1996, formerly set out as a note under section 60a-1 of Title 2.

1995—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1995, to the figure “\$22,200”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 28, 1994, formerly set out as a note under section 60a-1 of Title 2.

1993—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1993, to the figure “\$21,764”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 17, 1992, formerly set out as a note under section 60a-1 of Title 2.

1992—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1992, to the figure “\$20,987”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 18, 1991, formerly set out as a note under section 60a-1 of Title 2.

1991—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1991, to the figure “\$20,141”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 1990, formerly set out as a note under section 60a-1 of Title 2.

1990—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1990, to the figure “\$19,347”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 21, 1989, formerly set out as a note under section 60a-1 of Title 2.

1989—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1989, to the figure “\$18,674”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 9, 1988, formerly set out as a note under section 60a-1 of Title 2.

1988—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1988, to the figure “\$17,938”, see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 4, 1988, formerly set out as a note under section 60a-1 of Title 2.

1987—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1987, to the figure “\$17,586”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 19, 1986, formerly set out as a note under section 60a-1 of Title 2.

1985—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1985, to the figure “\$17,073”, see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 4, 1985, formerly set out as a note under section 60a-1 of Title 2.

1984—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Jan. 1, 1984, to the figure “\$16,495”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 1983, formerly set out as a note under section 60a-1 of Title 2.

1982—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1982, to the figure “\$15,860”, see section 9 of Salary Directive of President pro tempore of the Senate, Oct. 1, 1982, formerly set out as a note under section 60a-1 of Title 2.

1980—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1980, to the figure “\$14,551”, see section 9 of Salary Directive of President pro tempore of the Senate, Oct. 1, 1980, formerly set out as a note under section 60a-1 of Title 2.

1979—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1979, to the figure “\$13,337”, see section 9 of Salary Directive of President pro tempore of the Senate, Oct. 13, 1979, formerly set out as a note under section 60a-1 of Title 2.

1978—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1978, to the figure “\$12,480”, see section 9 of Salary Directive of President pro tempore of the Senate, Oct. 9, 1978, formerly set out as a note under section 60a-1 of Title 2.

1977—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1977, to the figure “\$11,830”, see section 9 of Salary Directive of President pro tempore of the Senate, Sept. 27, 1977, formerly set out as a note under section 60a-1 of Title 2.

1976—The figure “\$10,540” in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1976, to the figure “\$11,050”, see section 9 of Salary Directive of President pro tempore of the Senate, Oct. 8, 1976, formerly set out as a note under section 60a-1 of Title 2.

1973—The figure “\$7,724” in subsection (c)(1) of this section, deemed to refer, effective Jan. 1, 1973, to the figure “\$9,080”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 16, 1972, formerly set out as a note under section 60a-1 of Title 2.

1972—The figure “\$7,724” in subsection (c)(1) of this section, deemed to refer, effective Jan. 1, 1972, to the figure “\$8,637”, see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 23, 1971, formerly set out as a note under section 60a-1 of Title 2.

1971—The figure “\$7,724” in subsection (c)(1) of this section, deemed to refer, effective Feb. 1, 1971, to the figure “\$8,187”, see section 9 of Salary Directive of President pro tempore of the Senate, Jan. 15, 1971, formerly set out as a note under section 60a-1 of Title 2.

1970—Adjustment by President pro tempore of the Senate with respect to Senate, by Finance Clerk of House with respect to House of Representatives, and by Architect of Capitol with respect to Office of Architect of Capitol, effective on the first day of the first pay period which begins on or after Dec. 27, 1969, of rates of pay of employees of legislative branch subject to section 214 of Pub. L. 90-206 with certain exceptions, by amounts of adjustment for corresponding rates for employees subject to the General Schedule, set out in section 5332 of this title, which had been made by section 2 of Pub. L. 91-231 raising such rates by 6 percent, see Pub. L. 91-231, formerly set out as a note under section 5332 of this title.

1969—The figure “\$6,662” in subsection (c)(1)(A) of this section, as increased by Order of June 12, 1968, deemed, on and after July 1, 1969, to refer to the figure “\$7,287”, see section 4(d) of Salary Directive of President pro tempore of the Senate, June 17, 1969, formerly set out as a note under section 60a-1 of Title 2.

1968—The figure “\$6,256” in subsection (c)(1)(A) of this section deemed to refer, on and after July 1, 1968, to the figure “\$6,622”, see section 1(i) of Salary Directive of President pro tempore of the Senate, June 12, 1968, formerly set out as a note under section 60a-1 of Title 2.

§ 5534. Dual employment and pay of Reserves and National Guardsmen

A Reserve of the armed forces or member of the National Guard may accept a civilian office or position under the Government of the United States or the government of the District of Columbia, and he is entitled to receive the pay of

that office or position in addition to pay and allowances as a Reserve or member of the National Guard.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 484.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 30r(c) (1st sentence).	Aug. 10, 1956, ch. 1041, § 29(c) (1st sentence), 70A Stat. 632.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5534a. Dual employment and pay during terminal leave from uniformed services

A member of a uniformed service who has performed active service and who is on terminal leave pending separation from, or release from active duty in, that service under honorable conditions may accept a civilian office or position in the Government of the United States, its territories or possessions, or the government of the District of Columbia, and he is entitled to receive the pay of that office or position in addition to pay and allowances from the uniformed service for the unexpired portion of the terminal leave. Such a member also is entitled to accrue annual leave with pay in the manner specified in section 6303(a) of this title for a retired member of a uniformed service.

(Added Pub. L. 90-83, §1(22), Sept. 11, 1967, 81 Stat. 199; amended Pub. L. 109-364, div. A, title XI, §1101, Oct. 17, 2006, 120 Stat. 2407.)

HISTORICAL AND REVISION NOTES

This section amends chapter 55 of title 5, United States Code, by inserting a new section 5534a. This section is based on subsections (a) and (f) of former 5 U.S.C. 61a-1 the source statute for which (act of Nov. 21, 1945, ch. 489, 59 Stat. 584) was repealed by the act of September 6, 1966, Public Law 89-554 (sec. 8, 80 Stat. 653). Senate Report 1380, 89th Congress, second session, pages 449, 511, explains that the source was repealed since it had been rendered obsolete by section 4(c) of the Armed Forces Leave Act of 1946, as amended (37 U.S.C. 501), and section 219(c) of the Public Health Service Act, as added August 9, 1950 (ch. 654, sec. 2, 64 Stat. 426; 42 U.S.C. 210-1(c)), and that any existing rights are preserved by section 8 of Public Law 89-554.

At the time of enactment of the act of November 21, 1945, there was no authority to make lump-sum leave payments to members of the uniformed services who were being separated from or released from active duty in the uniformed services. Accordingly, they were placed on terminal leave until the expiration of the unused portion of their accumulated and current accrued leave, and only then separated or released. The act of November 21, 1945, in part, authorized the employment of these members during terminal leave and provided they were entitled to receive, in addition to the payment from the employment, military pay and allowances for the unexpired portion of the terminal leave. The Armed Forces Leave Act of 1946 authorized lump-sum leave payments of unused accumulated and current accrued leave. Generally, thereafter, members of the uniformed services were not placed on terminal leave, but were separated and paid a lump-sum leave payment. However, in certain instances a member may be placed on terminal leave. Such a case was considered recently by the Comptroller General of the United States (see B-157500, Oct. 13, 1965, 45 Comp. Gen. 180. In

view of the foregoing, it is concluded that subsection (a) of former 5 U.S.C. 61a-1 had prospective effect and should have been reenacted in title 5, U.S.C., by Public Law 89-554.

In section 5534a, the words "A member of a uniformed service who has performed active service" are substituted for "Any person, who, shall have performed active service in the Armed Forces" to conform to the style of title 5 and the definition of "uniformed services" in 5 U.S.C. 2101 which is coextensive with the definition of "armed forces" in subsection (f) of former 5 U.S.C. 61a-1. Reorganization Plan No. 2 of 1965 (79 Stat. 1318), effective July 13, 1965, consolidated the Coast and Geodetic Survey and the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration. The words "subsequent to May 1, 1940" are omitted as executed. The word "territories" is substituted for "Territories" inasmuch as there now are no incorporated territories. The words "(including any corporation created under authority of an act of Congress which is either wholly controlled or wholly owned by the Government of the United States, or any department, agency, or establishment thereof, whether or not the employees thereof are paid from funds appropriated by Congress)" are omitted as included in "a civilian office or position in the Government of the United States". The word "pay" is substituted for "compensation."

AMENDMENTS

2006—Pub. L. 109-364 inserted at end "Such a member also is entitled to accrue annual leave with pay in the manner specified in section 6303(a) of this title for a retired member of a uniformed service."

EFFECTIVE DATE

Section effective Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as an Effective Date of 1967 Amendment note under section 5102 of this title.

§ 5535. Extra pay for details prohibited

(a) An officer may not receive pay in addition to the pay for his regular office for performing the duties of a vacant office as authorized by sections 3345-3347 of this title.

(b) An employee may not receive—

- (1) additional pay or allowances for performing the duties of another employee; or
- (2) pay in addition to the regular pay received for employment held before his appointment or designation as acting for or instead of an occupant of another position or employment.

This subsection does not prevent a regular and permanent appointment by promotion from a lower to a higher grade of employment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 484.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)	5 U.S.C. 9.	R.S. §182.
(b)	5 U.S.C. 69 (1st 34 words).	R.S. §1764 (1st 34 words).
	5 U.S.C. 72.	Aug. 1, 1914, ch. 223, §12, 38 Stat. 680.

Subsection (a) was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, §201(d), as added Aug. 10, 1949, ch. 412, §4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Re-

vised Statutes as now or hereafter amended shall be applicable to the Department of Defense” is omitted from this title but is not repealed.

In subsection (a), the words “regular office” are coextensive with and substituted for “proper office”.

In subsection (b), former sections 69 (1st 34 words) and 72 are combined and restated for clarity and conciseness. The word “employee” is coextensive with and substituted for “officer or clerk”, “officer or clerk in the same or any other department”, and “person employed in the service of the United States”. The words “under any general or lump-sum appropriation” are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5536. Extra pay for extra services prohibited

An employee or a member of a uniformed service whose pay or allowance is fixed by statute or regulation may not receive additional pay or allowance for the disbursement of public money or for any other service or duty, unless specifically authorized by law and the appropriation therefor specifically states that it is for the additional pay or allowance.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 484.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. It lists the consolidation of R.S. §170, R.S. §1764, and the Act of June 20, 1874, into R.S. §1765.

Sections are consolidated as R.S. §1765 includes the scope of R.S. §170, R.S. §1764, and the Act of June 20, 1874, as amended. So much of R.S. §1764 as relates to details is covered by section 5535.

R.S. §170 was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, §201(d), as added Aug. 10, 1949, ch. 412, §4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides “Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense” is omitted from his [sic] title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5537. Fees for jury and witness service

(a) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police) or an individual employed by the government of the District of Columbia may not receive fees for service—

(1) as a juror in a court of the United States or the District of Columbia; or

(2) as a witness on behalf of the United States or the District of Columbia.

(b) An official of a court of the United States or the District of Columbia may not receive witness fees for attendance before a court, commissioner, or magistrate judge where he is officiating.

(c) For the purpose of this section, “court of the United States” has the meaning given it by section 451 of title 28 and includes the District Court of Guam and the District Court of the Virgin Islands.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 484; Pub. L. 90-623, §1(12), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 91-563, §3(a), Dec. 19, 1970, 84 Stat. 1477; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 104-186, title II, §215(8), Aug. 20, 1996, 110 Stat. 1746; Pub. L. 104-201, div. C, title XXXV, §3548(a)(5), Sept. 23, 1996, 110 Stat. 2868; Pub. L. 111-145, §7(c)(2), Mar. 4, 2010, 124 Stat. 55.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. It lists the derivation from 5 U.S.C. 300 to June 29, 1940, ch. 446, §2, 54 Stat. 689.

The words “fees for jury service” are coextensive with and substituted for “compensation for such service”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-145 substituted “, the Chief Administrative Officer of the House of Representatives, or the Chief of the Capitol Police” for “or the Chief Administrative Officer of the House of Representatives” in introductory provisions.

1996—Subsec. (a). Pub. L. 104-186 substituted “Chief Administrative Officer” for “Clerk” in introductory provisions.

Subsec. (c). Pub. L. 104-201 substituted “the District Court of Guam and the District Court of the Virgin Islands” for “the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands”.

1970—Pub. L. 91-563 substituted “jury and witness service” for “jury service in courts of the United States” in section catchline, designated existing provisions as subsec. (a), inserted provisions prohibiting payment of fees for jury service in a court of the District of Columbia or for service as a witness on behalf of the United States or the District of Columbia and excepting employees whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives, and added subsecs. (b) and (c).

1968—Pub. L. 90-623 inserted “, who is entitled to leave under section 6322 of this title,” after “individual employed by the government of the District of Columbia”.

CHANGE OF NAME

Words “magistrate judge” substituted for “magistrate” in subsec. (b) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-145 effective as though enacted as part of section 1018 of Pub. L. 108-7, see section 7(d) of Pub. L. 111-145, set out as a note under section 2107 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

(2) the amount of pay and allowances which (as determined under subsection (d))—

(A) is payable to such employee for that service; and

(B) is allocable to such pay period.

(b) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

(1) during which such employee is entitled to re-employment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

(2) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

(c) Any amount payable under this section to an employee shall be paid—

(1) by such employee's employing agency;

(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

(f) For purposes of this section—

(1) the terms "employee", "Federal Government", and "uniformed services" have the same respective meanings as given those terms in section 4303 of title 38;

(2) the term "employing agency", as used with respect to an employee entitled to any payments under this section, means the agen-

cy or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

(3) the term "basic pay" includes any amount payable under section 5304.

(Added Pub. L. 111-8, div. D, title VII, §751(a), Mar. 11, 2009, 123 Stat. 693; amended Pub. L. 111-117, div. C, title VII, §745(a), Dec. 16, 2009, 123 Stat. 3219.)

AMENDMENTS

2009—Subsec. (b). Pub. L. 111-117 added subsec. (b) and struck out former subsec. (b), which read as follows:

"(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

"(A) during which such employee is entitled to re-employment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

"(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

"(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

"(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

"(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a)."

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-117, div. C, title VII, §745(b), Dec. 16, 2009, 123 Stat. 3219, provided that: "The amendments made by this section [amending this section] shall take effect on the first day of the first applicable pay period beginning on or after the date of the enactment of this Act [Dec. 16, 2009]."

EFFECTIVE DATE

Pub. L. 111-8, div. D, title VII, §751(c), Mar. 11, 2009, 123 Stat. 695, provided that: "The amendments made by this section [enacting this section] shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act [Mar. 11, 2009]."

SUBCHAPTER V—PREMIUM PAY

§ 5541. Definitions

For the purpose of this subchapter—

(1) "agency" means—

(A) an Executive agency;

(B) a military department;

(C) an agency in the judicial branch;

(D) the Library of Congress;

(E) the Botanic Garden;

(F) the Office of the Architect of the Capitol; and

(G) the government of the District of Columbia;

(2) "employee" means—

(A) an employee in or under an Executive agency;