(1) develop a plan that incorporates the following elements:

(A) adherence to merit principles set forth in section 2301;

(B) a fair, credible, and transparent employee performance appraisal system;

(C) a link between the pay-for-performance system, the employee performance appraisal system, and the agency's strategic plan;

(D) a means for ensuring employee involvement in the design and implementation of the system;

(E) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the pay-for-performance system;

(F) a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review;

(G) effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance; and

(H) a means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the pay-for-performance system;

(2) upon approval, receive an allocation of funding from the Office;

(3) make payments to individual employees in accordance with the agency's approved plan; and

(4) provide such information to the Office regarding payments made and use of funds received under this section as the Office may specify.

(b) The Office, in consultation with the Chief Human Capital Officers Council, shall review and approve an agency's plan before the agency is eligible to receive an allocation of funding from the Office.

(c) The Chief Human Capital Officers Council shall include in its annual report to Congress under section 1303(d) of the Homeland Security Act of 2002 an evaluation of the formulation and implementation of agency performance management systems.

(Added Pub. L. 108–136, div. A, title XI, § 1129(a), Nov. 24, 2003, 117 Stat. 1644.)

REFERENCES IN TEXT

Section 1303(d) of the Homeland Security Act of 2002, referred to in subsec. (c), is section 1303(d) of Pub. L. 107–296, which is set out as a note under section 1401 of this title.

PRIOR PROVISIONS

A prior section 5406, added Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3211; amended Pub. L. 101–103, § 4, Sept. 30, 1989, 103 Stat. 671; Pub. L. 102–22, § 2(b), Mar. 28, 1991, 105 Stat. 71, related to performance awards, prior to repeal by Pub. L. 103–89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

§ 5407. Nature of payment

Any payment to an employee under this section shall be part of the employee's basic pay for the purposes of subchapter III of chapter 83, and chapters 84 and 87, and for such other purposes (other than chapter 75) as the Office shall determine by regulation.

(Added Pub. L. 108–136, div. A, title XI, § 1129(a), Nov. 24, 2003, 117 Stat. 1645.)

PRIOR PROVISIONS

A prior section 5407, added Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3213, related to cash award program, prior to repeal by Pub. L. 103–89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

§ 5408. Appropriations

There is authorized to be appropriated $500,000,000 for fiscal year 2004, and, for each subsequent fiscal year, such sums as may be necessary to carry out the provisions of this chapter. In the first year of implementation, up to 10 percent of the amount appropriated to the Fund shall be available to participating agencies to train supervisors, managers, and other individuals involved in the appraisal process on using performance management systems to make meaningful distinctions in employee performance and on the use of the Fund.

(Added Pub. L. 108–136, div. A, title XI, § 1129(a), Nov. 24, 2003, 117 Stat. 1645.)

PRIOR PROVISIONS

Prior sections 5408 to 5410 were repealed by Pub. L. 103–89, § 3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, effective Nov. 1, 1993.

Section 5408, added Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3214, required annual reports by Office of Personnel Management.

Section 5409, added Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3214, directed Office of Personnel Management to prescribe regulations.

Section 5410, added Pub. L. 98–615, title II, § 201(a), Nov. 8, 1984, 98 Stat. 3214; amended Pub. L. 101–103, § 2, Sept. 30, 1989, 103 Stat. 670; Pub. L. 102–22, § 2(c), Mar. 28, 1991, 105 Stat. 71; Pub. L. 103–89, § 2, Sept. 30, 1993, 107 Stat. 981, related to termination of chapter and accompanying regulations.

CHAPTER 55—PAY ADMINISTRATION

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[1] Section catchline amended by Pub. L. 97–365 without corresponding amendment of chapter analysis.

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[5591 to 5594. Repealed.]
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AMENDMENTS

2009—Pub. L. 111–8, div. D, title VII, § 751(b), Mar. 11, 2009, 123 Stat. 695, added item 5538.

2004—Pub. L. 108–411, title II, § 203(b), Oct. 30, 2004, 118 Stat. 2313, added item 5550b.

1999—Pub. L. 106–65, div. A, title VI, § 651(a)(2), Oct. 5, 1999, 113 Stat. 664, struck out item 5532 ''Employment of retired members of the uniformed services; reduction in retired or retainer pay.''

1998—Pub. L. 105–277, div. A, § 101(h) [title VI, § 628(b)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–521, added item 5545b.

1994—Pub. L. 103–329, title VI, § 633(b)(3), Sept. 30, 1994, 108 Stat. 2427, added item 5545a.

1993—Pub. L. 103–94, § 9(b)(1), Oct. 6, 1993, 107 Stat. 1010, which directed amendment of table of chapters for chapter 55 of this title by adding item 5520a, was executed by adding item 5520a to table of sections for this chapter to reflect the probable intent of Congress.

1992—Pub. L. 102–484, div. D, title XLIV, § 4436(a)(2), Oct. 23, 1992, 106 Stat. 2724, added item 5597.

Pub. L. 102–378, § 2(44)(B), (45)(B), Oct. 2, 1992, 106 Stat. 1352, 1353, struck out item 5550 ''Pay for Sunday and overtime work; employees of nonappropriated fund instrumentalities'' and added item 5553.

1990—Pub. L. 101–509, title V, § 529 [title I, § 107(b)], Nov. 5, 1990, 104 Stat. 1427, 1449, added item 5524a.

1986—Pub. L. 99–399, title VIII, § 803(b), Aug. 27, 1986, 100 Stat. 883, added items 5569 and 5570.

1985—Pub. L. 99–224, § 1(b), Dec. 28, 1985, 99 Stat. 1741, substituted ''and of travel, transportation and relocation expenses and allowances'' for ''other than travel and transportation expenses and allowances and relocation expenses'' in item 5584.

1984—Pub. L. 98–525, title XV, § 1537(c)(6)(B), Oct. 19, 1984, 98 Stat. 2636, inserted ''and the Department of Defense'' in item 5546a.

1982—Pub. L. 97–276, § 151(c)(2), Oct. 2, 1982, 96 Stat. 1201, added item 5546a.

1978—Pub. L. 95–454, title III, § 308(f)(2), Oct. 13, 1978, 92 Stat. 1151, substituted ''members of the uniformed services; reduction in retired or retainer pay'' for ''officers of the uniformed services; reduction in retired or retirement pay; exceptions'' in item 5532.

Pub. L. 95–390, title IV, § 401(b), Sept. 29, 1978, 92 Stat. 762, added item 5550a.

1977—Pub. L. 95–30, title IV, § 408(b), May 23, 1977, 91 Stat. 157, substituted ''city or county'' for ''city'' in item 5520.

1975—Pub. L. 94–183, § 2(24), Dec. 31, 1975, 89 Stat. 1058, struck out ''Sunday,'' after ''Night,'' in item 5545.

1974—Pub. L. 93–340, § 1(b), July 10, 1974, 88 Stat. 294, added item 5520.

1972—Pub. L. 92–453, § 3(2), Oct. 2, 1972, 86 Stat. 760, substituted ''overpayment of pay and allowances, other than travel and transportation expenses and allowances

and relocation expenses'' for ''overpayment of pay'' in item 5584.

Pub. L. 92–392, § 10(b), Aug. 19, 1972, 86 Stat. 574, added item 5550.

1970—Pub. L. 91–563, §§ 2(b), 3(b), Dec. 19, 1970, 84 Stat. 1477, substituted ''jury or witness service'' for ''jury service in State courts'' in item 5515, and ''jury and witness service'' for ''jury service in courts of the United States'' in item 5537.

1968—Pub. L. 90–616, § 1(b), Oct. 21, 1968, 82 Stat. 1212, added item 5584.

Pub. L. 90–588, § 2(c), Oct. 17, 1968, 82 Stat. 1152, added item 5519.

1967—Pub. L. 90–83, § 1(23), (26)(B), (28), (30), (35), Sept. 11, 1967, 81 Stat. 200, 201, 203, inserted items 5534a, 5595 and 5596, included Sunday rates in item 5544, Sunday and hazardous duty differential in item 5545 and Sundays in item 5546, substituted ''Severance Pay and Back Pay'' for ''Back Pay'' in heading of subchapter IX, and struck out items 5591 to 5594.

NO PAYMENT OF SERVICES TO INDIVIDUAL IN ACTING OR TEMPORARY CAPACITY AFTER SECOND NOMINATION FOR THAT INDIVIDUAL IS WITHDRAWN OR RETURNED TO PRESIDENT

Pub. L. 111–8, div. D, title VII, § 749, Mar. 11, 2009, 123 Stat. 693, provided that: ''Effective January 20, 2009, and for each fiscal year thereafter, no part of any appropriation contained in this or any other Act may be used for the payment of services to any individual carrying out the responsibilities of any position requiring Senate advice and consent in an acting or temporary capacity after the second submission of a nomination for that individual to that position has been withdrawn or returned to the President.''

NO PAYMENT TO PERSON FILLING POSITION AFTER VOTE BY SENATE NOT TO APPROVE PERSON'S NOMINATION

Pub. L. 110–161, div. D, title VII, § 709, Dec. 26, 2007, 121 Stat. 2021, provided that: ''Hereafter, no part of any appropriation contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.''

SUBCHAPTER I—GENERAL PROVISIONS

§ 5501. Disposition of money accruing from lapsed salaries or unused appropriations for salaries

Money accruing from lapsed salaries or from unused appropriations for salaries shall be covered into the Treasury of the United States. An individual who violates this section shall be removed from the service.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 475.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 50 (1st sentence; and 2d sentence, so much as relates to removal).	Aug. 5, 1882, ch. 389, § 4 (297th through 316th words), 22 Stat. 255. Aug. 23, 1912, ch. 350, § 5 (so much as relates to removal), 37 Stat. 414.

In the last sentence, the word ''removed'' is substituted for ''summarily removed'' because of the provisions of the Lloyd-LaFollette Act 37 Stat. 555, as amended, and the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which are carried into this title.

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

§ 5502. Unauthorized office; prohibition on use of funds

(a) Payment for services may not be made from the Treasury of the United States to an individual acting or assuming to act as an officer in the civil service or uniformed services in an office which is not authorized by existing law, unless the office is later sanctioned by law.

(b) Except as otherwise provided by statute, public money and appropriations may not be used for pay or allowance for an individual employed by an official of the United States retired from active service.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 475.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 52.	R.S. § 1760.
(b)	5 U.S.C. 85.	July 1, 1898, ch. 546, § 1 (3d proviso on p. 644), 30 Stat. 644.

In subsection (a), the words ''in the civil service or uniformed services'' are substituted for ''civil, military, or naval''.

In subsection (b), the words ''Except as otherwise provided by statute'' are added in recognition of the Act of Aug. 25, 1958, Pub. L. 85–745, 72 Stat. 838, which authorizes an office staff for former Presidents. The reference to ''public money and appropriations'' is added for clarity.

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

§ 5503. Recess appointments

(a) Payment for services may not be made from the Treasury of the United States to an individual appointed during a recess of the Senate to fill a vacancy in an existing office, if the vacancy existed while the Senate was in session and was by law required to be filled by and with the advice and consent of the Senate, until the appointee has been confirmed by the Senate. This subsection does not apply—

(1) if the vacancy arose within 30 days before the end of the session of the Senate;

(2) if, at the end of the session, a nomination for the office, other than the nomination of an individual appointed during the preceding recess of the Senate, was pending before the Senate for its advice and consent; or

(3) if a nomination for the office was rejected by the Senate within 30 days before the end of the session and an individual other than the one whose nomination was rejected thereafter receives a recess appointment.

(b) A nomination to fill a vacancy referred to by paragraph (1), (2), or (3) of subsection (a) of this section shall be submitted to the Senate not later than 40 days after the beginning of the next session of the Senate.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 475.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 56.	R.S. § 1761. July 11, 1940, ch. 580, 54 Stat. 751.

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

§ 5504. Biweekly pay periods; computation of pay

(a) The pay period for an employee covers two administrative workweeks.

(b) When, in the case of an employee, it is necessary for computation of pay under this subsection to convert an annual rate of basic pay to a basic hourly, daily, weekly, or biweekly rate, the following rules govern:

(1) To derive an hourly rate, divide the annual rate by 2,087.

(2) To derive a daily rate, multiply the hourly rate by the number of daily hours of service required.

(3) To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, as the case may be.

Rates are computed to the nearest cent, counting one-half and over as a whole cent.

(c) For the purposes of this section:

(1) The term ''employee'' means—

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

(B) an employee in or under the Office of the Architect of the Capitol, the Botanic Garden, and the Library of Congress, for whom a basic administrative workweek is established under section 6101(a)(5) of this title; and

(C) an individual employed by the government of the District of Columbia.

(2) The term ''employee'' does not include—

(A) an employee on the Isthmus of Panama in the service of the Panama Canal Commission; or

(B) an employee or individual excluded from the definition of employee in section 5541(2) of this title other than an employee or individual excluded by clauses (ii), (iii), and (xiv) through (xvii) of such section.

(3) Notwithstanding paragraph (2), an individual who otherwise would be excluded from the definition of employee shall be deemed to be an employee for purposes of this section if the individual's employing agency so elects, under guidelines in regulations promulgated by the Office of Personnel Management under subsection (d)(2).

(d)(1) The Office of Personnel Management may prescribe regulations, subject to the approval of the President, necessary for the administration of this section insofar as this section affects employees in or under an Executive agency.

(2) The Office of Personnel Management shall provide guidelines by regulation for exemptions to be made by the heads of agencies under subsection (c)(3). Such guidelines shall provide for such exemptions only under exceptional circumstances.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 475; Pub. L. 90–83, § 1(21), Sept. 11, 1967, 81 Stat. 199; Pub. L. 95–454, title IV, § 408(a)(1), title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1173, 1224; Pub. L. 96–54, § 2(a)(29), Aug. 14, 1979, 93 Stat. 383; Pub. L. 96–70, title III, § 3302(e)(2), Sept. 27, 1979, 93 Stat. 498; Pub. L. 99–272, title XV, § 15203(a), Apr. 7, 1986, 100 Stat. 334; Pub. L. 108–136, div. A, title XI, § 1124, Nov. 24, 2003, 117 Stat. 1637.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 944(b), (d) (last 27 words, as applicable to subsection (b)).	June 30, 1945, ch. 212, § 604(b), (e) (last 27 words, as applicable to subsection (b)), 59 Stat. 303, 304. July 31, 1959, Pub. L. 86–122, § 1, 73 Stat. 268.
(b)	5 U.S.C. 944(c), (d) (last 27 words, less applicability to subsection (b)).	June 30, 1945, ch. 212, § 604(d), (e) (last 27 words, less applicability to subsection (b)), 59 Stat. 303, 304. Oct. 28, 1949, ch. 782, § 1203, 63 Stat. 973. June 20, 1958, Pub. L. 85–462, § 15, 72 Stat. 214. Aug. 14, 1964, Pub. L. 88–426, § 103(c), 78 Stat. 402.

In subsection (a), the words ''Beginning not later than October 1, 1945'' are omitted as executed. Paragraphs (1) and (3) are substituted for the words ''all officers and employees of the organizations referred to in subsection (a) of this section''. In paragraph (A), the words ''Canal Zone Government'' and ''Panama Canal Company'' are substituted for ''The Panama Canal'' and ''Panama Railroad Company'' on authority of the Act of Sept. 26, 1950, ch. 1049, § 2(a), 64 Stat. 1038. Paragraph (B) is added on authority of former section 902, which is carried into section 5541.

In subsection (b), the exception in the last sentence is added on authority of former section 902, which is carried into section 5541.

Subsection (c) is added on authority of former section 945, which is carried into section 5548. The words ''an Executive agency'' are substituted for ''the executive branch of the Government'' to conform to the definition in section 105. Applicability of this section to employees of the General Accounting Office is based on former section 933a.

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

1967 ACT

This section amends 5 U.S.C. 5504 to reflect the amendment to 5 U.S.C. 6101 by section 1(43) of this bill.

AMENDMENTS

2003—Subsecs. (a), (b). Pub. L. 108–136, § 1124(a)(2), struck out last sentence which defined ''employee''.

Subsec. (c). Pub. L. 108–136, § 1124(a)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 108–136, § 1124(a)(1), (b), redesignated subsec. (c) as (d), inserted ''(1)'' after ''(d)'', and added par. (2).

1986—Subsec. (b). Pub. L. 99–272 struck out first sentence which provided that for pay computation purposes affecting an employee, the annual rate of basic pay established by or under statute is deemed payment for employment during 52 basic administrative workweeks of 40 hours, inserted '', in the case of an employee,'' after ''When'' in second sentence, substituted ''2,087'' for ''2,080'' in par. (1), and inserted ''other than an employee or individual excluded by section 5541(2)(xvi) of this title'' at end of last sentence.

1979—Subsec. (a)(A). Pub. L. 96–70 substituted ''Panama Canal Commission'' for ''Canal Zone Government or the Panama Canal Company''.

Subsec. (a)(B). Pub. L. 96–54 substituted ''(xvi) of this title'' for ''(xvi) of this section''.

1978—Subsec. (a). Pub. L. 95–454, § 408(a)(1), in par. (B) inserted reference to an employee or individual excluded by section 5541(2)(xvi).

Subsec. (c). Pub. L. 95–454, § 906(a)(2), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 15203(b) of Pub. L. 99–272 provided that: ''The amendments made by subsection (a) [amending this section] shall be effective with respect to pay periods commencing on or after March 1, 1986.''

EFFECTIVE DATE OF 1979 AMENDMENTS

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.

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 408(a)(1) of Pub. L. 95–454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 415 of Pub. L. 95–454, see section 415 of Pub. L. 95–454, set out as an Effective Date note under section 3131 of this title.

Amendment by section 906(a)(2) of 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.

DELEGATION OF FUNCTIONS

Functions vested in Office of Personnel Management under this section insofar as it affects officers and employees in or under executive branch of government to be performed without approval of President, see section 1(1) of Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

DETERMINATION OF HOURLY RATE

Pub. L. 97–253, title III, § 310(b), Sept. 8, 1982, 96 Stat. 799, as amended by Pub. L. 97–346, § 3(*l*), Oct. 15, 1982, 96 Stat. 1649; Pub. L. 98–117, § 1, Oct. 11, 1983, 97 Stat. 802, provided that:

''(1) Notwithstanding any other provision of law, effective with respect to pay periods beginning in fiscal years 1984 and 1985, and applicable in the case of an employee as defined in section 5504(b) of title 5, United States Code [subsection (b) of this section], any hourly rate derived under section 5504(b)(1) of title 5, United States Code, shall be derived by dividing the annual rate of basic pay by 2,087.

''(2) Paragraph (1) shall not apply in determining basic pay for purposes of subchapter III of chapter 83 of title 5, United States Code.

''(3) The Office of Personnel Management may prescribe regulations necessary for the administration of this subsection insofar as this subsection affects employees in or under an Executive agency.

''(4) Notwithstanding any other provision of this subsection, paragraph (1) shall not be effective with respect to pay periods beginning before the effective date of any increase under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems for fiscal year 1984.''

[Section 2 of Pub. L. 98–117 provided that: ''The amendment made by this Act [enacting par. (4) of this note] shall be effective as of October 1, 1983.'']

§ 5505. Monthly pay periods; computation of pay

The pay period for an individual in the service of the United States whose pay is monthly or annual covers one calendar month, and the following rules for division of time and computation of pay for services performed govern:

(1) A month's pay is one-twelfth of a year's pay.

(2) A day's pay is one-thirtieth of a month's pay.

(3) The 31st day of a calendar month is ignored in computing pay, except that one day's pay is forfeited for one day's unauthorized absence on the 31st day of a calendar month.

(4) For each day of the month elapsing before entering the service, one day's pay is deducted from the first month's pay of the individual.

This section does not apply to an employee whose pay is computed under section 5504(b) of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 476.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 84.	June 30, 1906, ch. 3914, § 6, 34 Stat. 763. June 30, 1945, ch. 212, § 604(c) (2d sentence), 59 Stat. 303.

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

§ 5506. Computation of extra pay based on standard or daylight saving time

When an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia is entitled to extra pay for services performed between or after certain named hours of the day or night, the extra pay is computed on the basis of either standard or daylight saving time, depending on the time observed by law, custom, or practice where the services are performed.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 476.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 914.	Sept. 7, 1949, ch. 538, § 2, 63 Stat. 690.

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

§ 5507. Officer affidavit; condition to pay

An officer required by section 3332 of this title to file an affidavit may not be paid until the affidavit has been filed.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 21b.	Dec. 11, 1926, ch. 4, § 2, 44 Stat. 919.

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

§ 5508. Officer entitled to leave; effect on pay status

An officer in the executive branch and an officer of the government of the District of Colum-

bia to whom subchapter I of chapter 63 of this title applies are not entitled to the pay of their offices solely because of their status as officers.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 2061(c)(1) (last sentence).	July 2, 1953, ch. 178, § 1 ''(c)(1) (last sentence)'', 67 Stat. 136.

The words ''including an officer of a corporation wholly owned or controlled by the United States'' are omitted as unnecessary in view of the definition of ''officer'' in section 2104.

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

§ 5509. Appropriations

There are authorized to be appropriated sums necessary to carry out the provisions of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	[Uncodified].	June 30, 1945, ch. 212, § 609, 59 Stat. 306.
.....	[Uncodified].	Oct. 28, 1949, ch. 782, § 1107, 63 Stat. 972.
.....	[Uncodified].	Sept. 30, 1950, ch. 1123, § 13, 64 Stat. 1100.
.....	42 U.S.C. 1370.	Sept. 1, 1954, ch. 1212, § 4(a) ''Sec. 1510'', 68 Stat. 1135.
.....	[Uncodified].	Sept. 6, 1960, Pub. L. 86–707, § 501(a), 74 Stat. 800.

The remainder of the authority for this section is implied from the statutes from which this title is derived.

MERIT SYSTEMS PROTECTION BOARD AND OFFICE OF SPECIAL COUNSEL; AUTHORIZATION OF APPROPRIATIONS; RESTRICTION ON APPROPRIATIONS

Pub. L. 101–12, § 8(a), (b), Apr. 10, 1989, 103 Stat. 34, as amended by Pub. L. 103–424, § 1, Oct. 29, 1994, 108 Stat. 4361; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, §§ 641(a), 642(a)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–365; Pub. L. 107–304, § 2(a), (b), Nov. 27, 2002, 116 Stat. 2364, provided that:

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated—

''(1) for each of fiscal years 2003, 2004, 2005, 2006, and 2007 such sums as necessary to carry out subchapter I of chapter 12 of title 5, United States Code (as amended by this Act); and

''(2) for each of fiscal years 2003, 2004, 2005, 2006, and 2007 such sums as necessary to carry out subchapter II of chapter 12 of title 5, United States Code (as amended by this Act).

''(b) RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978.—No funds may be appropriated to the Merit Systems Protection Board or the Office of Special Counsel pursuant to section 903 of the Civil Service Reform Act of 1978 [Pub. L. 95–454] (5 U.S.C. 5509 note).''

[Pub. L. 107–304, § 2(c), Nov. 27, 2002, 116 Stat. 2364, provided that: ''This section [amending section 8(a) of Pub. L. 101–12, set out above] shall be effective as of October 1, 2002.'']

[Pub. L. 104–208, div. A, title I, § 101(f) [title VI, §§ 641(b), 642(b)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–365, provided that the amendments made by section 101(f) [title VI, §§ 641(a), 642(a)] of Pub. L. 104–208 [amending section 8(a) of Pub. L. 101–12, set out above] were to be effective on Oct. 1, 1998.]

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 95–454, title IX, § 903, Oct. 13, 1978, 92 Stat. 1224, provided that: ''There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act [For classification of Pub. L. 95–454, see Tables].''

SUBCHAPTER II—WITHHOLDING PAY

§ 5511. Withholding pay; employees removed for cause

(a) Except as provided by subsection (b) of this section, the earned pay of an employee removed for cause may not be withheld or confiscated.

(b) If an employee indebted to the United States is removed for cause, the pay accruing to the employee shall be applied in whole or in part to the satisfaction of any claim or indebtedness due the United States.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 46a.	Feb. 24, 1931, ch. 287, 46 Stat. 1415.

In subsection (a), the words ''From and after February 24, 1931'' are omitted as executed. The word ''employee'' is coextensive with and substituted for ''civil employee of the United States'' in view of the definition of ''employee'' in section 2105.

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

§ 5512. Withholding pay; individuals in arrears

(a) The pay of an individual in arrears to the United States shall be withheld until he has accounted for and paid into the Treasury of the United States all sums for which he is liable.

(b) When pay is withheld under subsection (a) of this section, the employing agency, on request of the individual, his agent, or his attorney, shall report immediately to the Attorney General the balance due; and the Attorney General, within 60 days, shall order suit to be commenced against the individual.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477; Pub. L. 92–310, title II, § 202, June 6, 1972, 86 Stat. 202; Pub. L. 104–316, title I, § 103(b), Oct. 19, 1996, 110 Stat. 3828.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 82.	R.S. § 1766.

In subsection (b), reference to the ''General Accounting Office'' is substituted for ''accounting officers of the Treasury'' on authority of the Act of June 10, 1921, ch. 18, title III, 42 Stat. 23. The words ''on request of'' are substituted for ''if required to do so by'' as more accurately reflecting the intent. Reference to the ''Attorney General'' is substituted for ''Solicitor of the Treasury'' and ''Solicitor'' on authority of section 16 of the Act of March 3, 1933, ch. 212, 47 Stat. 1517; section 5 of

E.O. 6166, June 10, 1933; and section 1 of 1950 Reorg. Plan No. 2, 64 Stat. 1261.

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

1996—Subsec. (b). Pub. L. 104–316 substituted ''employing agency'' for ''General Accounting Office''.

1972—Subsec. (b). Pub. L. 92–310 struck out ''and his sureties'' after ''against the individual''.

§ 5513. Withholding pay; credit disallowed or charge raised for payment

When the Government Accountability Office, on a statement of the account of a disbursing or certifying official of the United States, disallows credit or raises a charge for a payment to an individual in or under an Executive agency otherwise entitled to pay, the pay of the payee shall be withheld in whole or in part until full reimbursement is made under regulations prescribed by the head of the Executive agency from which the payee is entitled to receive pay. This section does not repeal or modify existing statutes relating to the collection of the indebtedness of an accountable, certifying, or disbursing official.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 46b.	May 26, 1936, ch. 452, 49 Stat. 1374. Aug. 3, 1950, ch. 515, 64 Stat. 393.

The words ''On and after May 26, 1936'' are omitted as executed. The word ''official'' is substituted for ''officer'' and ''officers'' as the definition of ''officer'' in section 2104 excludes a member of a uniformed service. The words ''from the United States or from an agency or instrumentality thereof'' 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.

AMENDMENTS

2004—Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

§ 5514. Installment deduction for indebtedness to the United States

(a)(1) When the head of an agency or his designee determines that an employee, member of the Armed Forces or Reserve of the Armed Forces, is indebted to the United States for debts to which the United States is entitled to be repaid at the time of the determination by the head of an agency or his designee, or is notified of such a debt by the head of another agency or his designee the amount of indebtedness may be collected in monthly installments, or at officially established pay intervals, by deduction from the current pay account of the individual. The deductions may be made from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay. The amount deducted for any period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved. If the individual retires or resigns, or if his employment or period of active duty otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from subsequent payments of any nature due the individual from the agency concerned. All Federal agencies to which debts are owed and which have outstanding delinquent debts shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. The preceding sentence shall not apply to any debt under the Internal Revenue Code of 1986. Matched Federal employee records shall include, but shall not be limited to, records of active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, employees of other government corporations, and seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.

(2) Except as provided in paragraph (3) of this subsection, prior to initiating any proceedings under paragraph (1) of this subsection to collect any indebtedness of an individual, the head of the agency holding the debt or his designee, shall provide the individual with—

(A) a minimum of thirty days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this subsection;

(B) an opportunity to inspect and copy Government records relating to the debt;

(C) an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt; and

(D) an opportunity for a hearing on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to subparagraph (C), concerning the terms of the repayment schedule.

A hearing, described in subparagraph (D), shall be provided if the individual, on or before the fifteenth day following receipt of the notice described in subparagraph (A), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under subparagraph (D) may not be conducted by an individual under the supervision or control of the head of the

agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than sixty days after the filing of the petition requesting the hearing.

(3) Paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, if at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.

(4) The collection of any amount under this section shall be in accordance with the standards promulgated pursuant to sections 3711 and 3716–3718 of title 31 or in accordance with any other statutory authority for the collection of claims of the United States or any agency thereof.

(5) For purposes of this subsection—

(A) ''disposable pay'' means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld; and

(B) ''agency'' includes executive departments and agencies, the United States Postal Service, the Postal Regulatory Commission, any nonappropriated fund instrumentality described in section 2105(c) of this title, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and government corporations.

(b)(1) The head of each agency shall prescribe regulations, subject to the approval of the President, to carry out this section and section 3530(d) of title 31. Regulations prescribed by the Secretaries of the military departments shall be uniform for the military services insofar as practicable.

(2) For purposes of section 7117(a) of this title, no regulation prescribed to carry out subsection (a)(2) of this section shall be considered to be a Government-wide rule or regulation.

(c) Subsection (a) of this section does not modify existing statutes which provide for forfeiture of pay or allowances. This section and section 3530(d) of title 31 do not repeal, modify, or amend section 4837(d) or 9837(d) of title 10 or section 1007(b), (c) of title 37.

(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over other deductions under this section.

(e) An employee of a nonappropriated fund instrumentality described in section 2105(c) of this title is deemed an employee covered by this section.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477; Pub. L. 96–54, § 2(a)(2), Aug. 14, 1979, 93 Stat. 381; Pub. L. 97–258, § 3(a)(12), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 97–365, § 5, Oct. 25, 1982, 96 Stat. 1751; Pub. L. 97–452, § 2(a)(2), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 98–216, § 3(a)(4), Feb. 14, 1984, 98 Stat. 6; Pub. L. 104–134, title III, § 31001(h), Apr. 26, 1996, 110 Stat. 1321–363; Pub. L. 109–435, title VI, § 604(b), Dec. 20, 2006, 120 Stat. 3241; Pub. L. 110–181, div. A, title VI, § 652, Jan. 28, 2008, 122 Stat. 162.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 46d.	July 15, 1954, ch. 509, §§ 1, 2, 4, 68 Stat. 482, 483.
.....	5 U.S.C. 46e.	

In subsection (a), the words ''head of the agency concerned'' are substituted for ''Secretary of the department concerned or the head of the agency or independent establishment concerned, or one of their designees''. The words ''an employee, a member of the armed forces, or a Reserve of the armed forces'' are coextensive with and substituted for ''an employee of the United States or any member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, or a reserve component thereof'' in view of the definitions in sections 2101 and 2105. The words ''basic compensation'' are omitted as included in ''basic pay''.

In subsection (b), the words ''head of each agency'' are substituted for ''Each Secretary of a department, or head of an agency or independent establishment, as appropriate''. The words ''Secretaries of the military departments'' are substituted for ''Secretaries of the Army, Navy, and Air Force'' to conform to the definition of ''military department'' in section 102.

In subsection (c), the words ''section 4837(d) or 9837(d) of title 10 or section 1007(b), (c) of title 37'' are substituted for ''the provisions of the Act of May 22, 1928 (ch. 676, 45 Stat. 698)'' in section 4 of the Act of July 15, 1954, on authority of the Acts of Aug. 10, 1956, ch. 1041, § 49(b), 70A Stat. 640, and Sept. 7, 1962, Pub. L. 87–649, § 12(b), 76 Stat. 497.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsecs. (a)(1) and (d), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

2008—Subsec. (a)(5)(B). Pub. L. 110–181, § 652(1), inserted ''any nonappropriated fund instrumentality described in section 2105(c) of this title,'' after ''Commission,''.

Subsec. (e). Pub. L. 110–181, § 652(2), added subsec. (e).

2006—Subsec. (a)(5)(B). Pub. L. 109–435 substituted ''Postal Regulatory Commission'' for ''Postal Rate Commission''.

1996—Subsec. (a)(1). Pub. L. 104–134, § 31001(h)(A)(i), inserted at end ''All Federal agencies to which debts are owed and which have outstanding delinquent debts shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. The preceding sentence shall not apply to any debt under the Internal Revenue Code of 1986. Matched Federal employee records shall include, but shall not be limited to, records of active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, employees of other government corporations, and seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.''

Subsec. (a)(3), (4). Pub. L. 104–134, § 31001(h)(A)(ii), (iii), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (a)(5). Pub. L. 104–134, § 31001(h)((A)(ii), redesignated par. (4) as (5).

Subsec. (a)(5)(B). Pub. L. 104–134, § 31001(h)(A)(iv), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''‘agency’ includes the United States Postal Service and the Postal Rate Commission.''

Subsec. (d). Pub. L. 104–134, § 31001(h)(B), added subsec. (d).

1984—Subsec. (c). Pub. L. 98–216 substituted ''section 3530(d)'' for ''section 581d''.

1983—Subsec. (a)(3). Pub. L. 97–452 substituted ''sections 3711 and 3716–3718 of title 31'' for ''the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.)''.

1982—Pub. L. 97–365, § 5(c), substituted ''indebtedness to the United States'' for ''indebtedness because of erroneous payment'' in section catchline.

Subsec. (a). Pub. L. 97–365, § 5(a), designated existing provisions as par. (1), in par. (1) as so designated substituted provisions relating to debts to which the United States is entitled to be repaid for provisions which had related to an indebtedness to the United States because of an erroneous payment made by an agency to or on behalf of an individual, inserted provisions relating to the notification of a debt by the head of another agency or his designee, substituted provisions authorizing the deduction of not to exceed 15 percent of disposable pay for provisions which had authorized the deduction of not to exceed two-thirds of the pay from which the deduction was made, and added pars. (2), (3), and (4).

Subsec. (b). Pub. L. 97–365, § 5(b), designated existing provisions as par. (1) and added par. (2).

Pub. L. 97–258 substituted ''section 3530(d)'' for ''section 581d''.

1979—Subsec. (b). Pub. L. 96–54 substituted ''President'' for ''Director of the Bureau of the Budget''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

SHORT TITLE OF 1982 AMENDMENT

Section 1 of Pub. L. 97–365 provided: ''That this Act [enacting sections 954 and 955 of former Title 31, Money and Finance, amending this section and section 552a of this title, section 1114 of Title 18, Crimes and Criminal Procedure, sections 6103 and 7213 of Title 26, Internal Revenue Code, section 2415 of Title 28, Judiciary and Judicial Procedure, and sections 484, 951, and 952 of former Title 31, and enacting provisions set out as notes under this section and section 6103 of Title 26] may be cited as the ‘Debt Collection Act of 1982’.''

DELEGATION OF FUNCTIONS

Authority of President under subsec. (b) of this section to approve regulations prescribed by head of each agency to carry out this section and section 581d of Title 31, Money and Finance [31 U.S.C. 3530(d)], relating to installment deductions from pay for indebtedness because of erroneous payment, delegated to Office of Personnel Management, see section 8(1) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

IMPROVEMENTS IN DEBT COLLECTION PROCEDURES UNDER 1982 AMENDMENTS AS CONTAINED IN DEBT COLLECTION ACT OF 1982 INAPPLICABLE TO CLAIMS OR INDEBTEDNESS UNDER INTERNAL REVENUE CODE, SOCIAL SECURITY ACT, OR TARIFF LAWS

Section 8(e) of Pub. L. 97–365, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Except as otherwise provided in section 4 or 7 or the foregoing provisions of this section [amending sections 6103 and 7213 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under section 6103 of Title 26], nothing in this Act (or in the amendments made by this Act) [see Short Title of 1982 Amendment note above] shall apply to claims or indebtedness arising under, or amounts payable under, the Internal Revenue Code of 1986 [Title 26], the Social Security Act [section 301 et seq. of Title 42, The Public Health and Welfare], or the tariff laws of the United States [Title 19, Customs Duties].''

COLLECTION OF INDEBTEDNESS OF EMPLOYEES OF FEDERAL GOVERNMENT RESULTING FROM ACTION OR SUIT BROUGHT AGAINST EMPLOYEE BY UNITED STATES

Pub. L. 97–276, § 124, Oct. 2, 1982, 96 Stat. 1195, provided that: ''Notwithstanding any other provision of this joint resolution [Pub. L. 97–276], in the case of any employee of the Federal Government who is indebted to the United States, as determined by a court of the United States in an action or suit brought against such employee by the United States, the amount of the indebtedness may be collected in monthly installments, or at officially established regular pay period intervals, by deduction in reasonable amounts from the current pay account of the individual. The deductions may be made only from basic pay, special pay, incentive pay, or, in the case of an individual not entitled to basic pay, other authorized pay. Collection shall be made over a period not greater than the anticipated period of employment. The amount deducted for any period may not exceed one-fourth of the pay from which the deduction is made, unless the deduction of a greater amount is necessary to make the collection within the period of anticipated employment. If the individual retires or resigns, or if his employment otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from later payments of any nature due to the individual from the United States Treasury.''

§ 5515. Crediting amounts received for jury or witness service

An amount received by 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 for service as a juror or witness during a period for which he is entitled to leave under section 6322(a) of this title, or is performing official duty under section 6322(b) of this title, shall be credited against pay payable to him by the United States or the District of Columbia with respect to that period.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 91–563, § 2(a), Dec. 19, 1970, 84 Stat. 1476; Pub. L. 104–186, title II, § 215(5), Aug. 20, 1996, 110 Stat. 1745; Pub. L. 111–145, § 7(c)(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. 30p.	June 29, 1940, ch. 446, § 3, 54 Stat. 689.

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—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''.

1996—Pub. L. 104–186 substituted ''Chief Administrative Officer'' for ''Clerk''.

1970—Pub. L. 91–563 substituted ''jury or witness service'' for ''jury service in State courts'' in section catchline.

Pub. L. 91–563 authorized crediting of amounts received for jury service in courts in the District of Columbia and in territories or possessions of the United States, included amounts received for service as a witness or when performing official duty under section 6322(b) of this title, and excepted individuals whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

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.

§ 5516. Withholding District of Columbia income taxes

(a) The Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the Mayor of the District of Columbia within 120 days of a request for agreement from the Mayor. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of subchapter II of chapter 15 of title 47, District of Columbia Code, in the case of employees of the agency who are subject to income taxes imposed by that subchapter and whose regular place of employment is within the District of Columbia. The agreement may not apply to pay of an employee who is not a resident of the District of Columbia as defined in subchapter II of chapter 15 of title 47, District of Columbia Code. In the case of pay for service as a member of the armed forces, the second sentence of this subsection shall be applied by substituting ''who are residents of the District of Columbia'' for ''whose regular place of employment is within the District of Columbia''. For the purpose of this subsection, ''employee'' has the meaning given it by section 1551c(z) of title 47, District of Columbia Code.

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 90–623, § 1(9), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 94–455, title XII, § 1207(a)(2), Oct. 4, 1976, 90 Stat. 1705; Pub. L. 96–54, § 2(a)(30), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	[Uncodified].	Mar. 31, 1956, ch. 154, § 11 ''(k)'', 70 Stat. 77.

Section 2(c) ''(z)'' of the Act of Mar. 31, 1956, 70 Stat. 68 (section 1551c(z) of title 47, District of Columbia Code) contains a definition of ''employee'' that is applicable to this section. Accordingly, the last sentence of subsection (a) is added to preserve the application of the source law.

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

1979—Subsec. (a). Pub. L. 96–54 substituted ''Mayor'' for ''Commissioner'' wherever appearing.

1976—Pub. L. 94–455 struck out ''pay for service as a member of the armed forces, or to'' after ''The agreement may not apply to'' and inserted provision that in the case of service as a member of the armed forces, the second sentence shall be applied by substituting ''who are residents of the District of Columbia'' for ''whose regular place of employment is within the District of Columbia''.

1968—Subsec. (a). Pub. L. 90–623 substituted ''Commissioner'' for ''Commissioners'' in two places.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1207(f)(1) of Pub. L. 94–455 provided that: ''The amendments made by subsection (a) [amending this section and section 5517 of this title] shall apply to wages withheld after the 120-day period following any request for an agreement after the date of the enactment of this Act [Oct. 4, 1976].''

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.

§ 5517. Withholding State income taxes

(a) When a State statute—

(1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the State withholding statute in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the State with which the agreement is made. In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting ''who are residents of the State with which the agreement is made'' for ''whose regular place of Federal employment is within the State with which the agreement is made''.

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a State for services performed in withholding State income taxes from the pay of the employees of the agency.

(c) For the purpose of this section, ''State'' means a State, territory, possession, or commonwealth of the United States.

(d) For the purpose of this section and sections 5516 and 5520, the terms ''serve as a member of the armed forces'' and ''service as a member of the Armed Forces'' include—

(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

(2) participation in scheduled drills or training periods, or service on active duty for training, under section 10147 of title 10, United States Code, by a member of the Ready Reserve.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 94–455, title XII, § 1207(a)(1), (b), (c), Oct. 4, 1976, 90 Stat. 1704, 1705; Pub. L. 100–180, div. A, title V, § 505(1), Dec. 4, 1987, 101 Stat. 1086; Pub. L. 103–337, div. A, title XVI, § 1677(a)(1), Oct. 5, 1994, 108 Stat. 3019; Pub. L. 105–34, title XIV, § 1462(a), Aug. 5, 1997, 111 Stat. 1057.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 84b.	July 17, 1952, ch. 940, § 1, 66 Stat. 765. Sept. 23, 1959, Pub. L. 86–371 ''Sec. 1'', 73 Stat. 653.
.....	5 U.S.C. 84c.	July 17, 1952, ch. 940, § 2, 66 Stat. 766. Sept. 23, 1959, Pub. L. 86–371 ''Sec. 2'', 73 Stat. 653.

In subsection (b), the words ''after March 31, 1959'' are 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

1997—Subsec. (c). Pub. L. 105–34 substituted '', territory, possession, or commonwealth'' for ''or territory or possession''.

1994—Subsec. (d)(2). Pub. L. 103–337 substituted ''section 10147'' for ''section 270(a)''.

1987—Subsec. (d). Pub. L. 100–180 struck out ''do not'' before ''include''.

1976—Subsec. (a). Pub. L. 94–455, § 1207(a)(1), (c), inserted in par. (1) provision relating to the grant to employers of the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld, inserted in par. (2) ''or grants the authority'' after ''imposes the duty'', and substituted in text following par. (2) provisions that in the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting ''who are residents of the State with which the agreement is made'' for ''whose regular place of Federal employment is within the State with which the agreement is made'' for provision that the agreement may not apply to pay for service as a member of the armed forces.

Subsec. (d). Pub. L. 94–455, § 1207(b), added subsec. (d).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1462(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1998.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1207(a)(1) of Pub. L. 94–455 applicable to wages withheld after the 120-day period following any request for an agreement after Oct. 4, 1976, see section 1207(f)(1) of Pub. L. 94–455, set out as a note under section 5516 of this title.

Section 1207(f)(2) of Pub. L. 94–455 provided that: ''The amendments made by subsections (b) and (c) [amending this section] shall apply to wages withheld after the 120-day period following the date of the enactment of this Act [Oct. 4, 1976].''

EXECUTIVE ORDER NO. 10407

Ex. Ord. No. 10407, Nov. 7, 1952, 17 F.R. 10132, which related to regulations governing agreements concerning withholding of state or territorial income taxes, was revoked by Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, formerly set out as a note under section 5520 of this title.

§ 5518. Deductions for State retirement systems; National Guard employees

When—

(1) a State statute provides for the payment of employee contributions to a State employee retirement system or to a State sponsored plan providing retirement, disability, or death benefits, by withholding sums from the pay of State employees and making returns of the sums withheld to State authorities or to the person or organization designated by State authorities to receive sums withheld for the program; and

(2) individuals employed by the Army National Guard and the Air National Guard, except employees of the National Guard Bureau, are eligible for membership in a State employee retirement system or other State sponsored plan;

the Secretary of Defense, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Department of Defense shall comply with the requirements of State statute as to the individuals named by paragraph (2) of this section who are eligible for membership in the State employee retirement system. The disbursing officials paying these individuals shall withhold and pay to the State employee retirement system or to the person or organization designated by State authorities to receive sums withheld for the program the employee contributions for these individuals. For the purpose of this section, ''State'' means a State or territory or possession of the United States including the Commonwealth of Puerto Rico.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 479.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 84d.	June 15, 1956, ch. 390, 70 Stat. 283. Sept. 13, 1961, Pub. L. 87–224, § 1, 75 Stat. 496.

The words ''individuals employed by'' and the word ''individuals'' are substituted for ''civilian employees of'' and ''employees'', respectively, in view of the definition of ''employee'' in section 2105 which is limited to

those employed by the Government of the United States. The word ''civilian'' is omitted as unnecessary as military personnel are not ''employed''. The words ''disbursing officials'' are substituted for ''disbursing officers'' as the definition of ''officer'' in section 2104 excludes a member of a uniformed 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.

EX. ORD. NO. 10996. WITHHOLDING OF COMPENSATION FOR STATE AND STATE-SPONSORED EMPLOYEE RETIREMENT, DISABILITY, OR DEATH BENEFITS PROGRAMS

Ex. Ord. No. 10996, Feb. 16, 1962, 27 F.R. 1521, provided:

By virtue of the authority vested in me by the act of June 15, 1956, as amended, 75 Stat. 496 (5 U.S.C. 84d) [now this section], 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, the term:

(a) ''Employees'' means civilian employees of the Army National Guard or Air National Guard of a State who are employed pursuant to section 709 of title 32 of the United States Code, and paid from Federal, appropriated funds.

(b) ''State'' means one of the United States, the Commonwealth of Puerto Rico, and any territory of the United States.

SEC. 2. Each agreement between the Secretary of Defense and the Governor or other proper official of a State, pursuant to the provisions of the act of June 15, 1956, as amended, with respect to withholding of compensation of certain civilian employees of the Army National Guard and the Air National Guard for purposes of State or State-sponsored employee retirement, disability, or death benefits systems, shall be entered into by the Secretary of Defense within one hundred and twenty days of the receipt of a request therefor by the Secretary from the Governor or any other proper official of any State; *Provided*, that—

(a) the law of such State provides for the payment of employee contributions to such State or State-sponsored employee retirement, disability, or death benefits systems by withholding sums from the compensation of such State employees and making returns of such sums to officials of such State or organization designated by such officials to receive sums withheld for such programs;

(b) civilian employees of the Army National Guard and the Air National Guard, other than those employed by the National Guard Bureau, are eligible for membership in a State retirement, disability, or death benefits system; and

(c) each such agreement is consistent with the provisions of the said act of June 15, 1956, as amended, and of rules and regulations issued thereunder, and contains a clause that it shall be subject to any amendments of the said act, including amendments occurring after the effective date of such agreement.

SEC. 3. Each such agreement shall:

(a) Provide that the Secretary of the Army with respect to civilian employees of the Army National Guard, and the Secretary of the Air Force with respect to civilian employees of the Air National Guard, shall comply with the requirements of such State law in the case of employee subject to the said act of June 15, 1956, as amended, who are eligible for membership in such retirement, disability, or death benefits system for State employees;

(b) Specify when the withholding of sums from the compensation of such State employees shall commence; and

(c) Provide for procedures for the withholding, the filing of the returns, and the payment of the sums withheld from compensation to the officials of the State, or organization designated by such officials to receive sums withheld for such programs, which procedures shall conform, so far as practicable, to the usual fiscal practices of the Department of the Army and the Department of the Air Force, respectively.

SEC. 4. The Secretary of the Army with respect to civilian employees of the Army National Guard, and the Secretary of the Air Force with respect to civilian employees of the Air National Guard, shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold sums from compensation, file required returns, and direct the payment of sums so withheld, in accordance with the terms of the agreements entered into between the Secretary of Defense and the States.

SEC. 5. Nothing in this order, or in rules or regulations issued thereunder, or in any agreement entered into pursuant thereto, shall be construed as giving consent to the application of any provision of law of any State which has the effect of imposing more burdensome requirements upon the United States than it imposes upon departments, agencies, or political subdivisions of the State concerned, with respect to employees thereof who are members of the State or State-sponsored retirement, disability, or death benefits system, or which has the effect of subjecting the United States or any of its officers or employees to any penalty or liability.

SEC. 6. I hereby delegate to the Secretary of Defense authority to prescribe such rules and regulations, not inconsistent herewith, as may be necessary to effectuate further the provisions of the said act of June 15, 1956, as amended, or of this order.

SEC. 7. Except to the extent that they may be inconsistent with this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

SEC. 8. This order supersedes Executive Order No. 10679 of September 20, 1956.

JOHN F. KENNEDY.

§ 5519. Crediting amounts received for certain Reserve or National Guard service

An amount (other than a travel, transportation, or per diem allowance) received by an employee or individual for military service as a member of the Reserve or National Guard for a period for which he is granted military leave under section 6323(b) or (c) shall be credited against the pay payable to the employee or individual with respect to his civilian position for that period.

(Added Pub. L. 90–588, § 2(b), Oct. 17, 1968, 82 Stat. 1152; amended Pub. L. 102–378, § 2(39), Oct. 2, 1992, 106 Stat. 1351; Pub. L. 104–106, div. A, title V, § 516(b), Feb. 10, 1996, 110 Stat. 309.)

AMENDMENTS

1996—Pub. L. 104–106 substituted ''granted military leave'' for ''entitled to leave''.

1992—Pub. L. 102–378 substituted ''6323(b) or (c)'' for ''6323(c) or (d) of this title''.

§ 5520. Withholding of city or county income or employment taxes

(a) When a city or county ordinance—

(1) provides for the collection of a tax by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to a designated city or county officer, department, or instrumentality; and

(2) imposes the duty to withhold generally on the payment of compensation earned with-

in the jurisdiction of the city or county in the case of employees whose regular place of employment is within such jurisdiction;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the city or county within 120 days of a request for agreement by the proper city or county official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city or county ordinance in the case of any employee of the agency who is subject to the tax and (i) whose regular place of Federal employment is within the jurisdiction of the city or county with which the agreement is made or (ii) is a resident of such city or county. The agreement may not apply to pay for service as a member of the Armed Forces (other than service described in section 5517(d) of this title). The agreement may not permit withholding of a city or county tax from the pay of an employee who is not a resident of, or whose regular place of Federal employment is not within, the State in which that city or county is located unless the employee consents to the withholding.

(b) This section does not give the consent of the United States to the application of an ordinance which imposes more burdensome requirements on the United States than on other employers or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a city or county for services performed in withholding city or county income or employment taxes from the pay of employees of the agency.

(c) For the purpose of this section—

(1) ''city'' means any unit of general local government which—

(A) is classified as a municipality by the Bureau of the Census, or

(B) is a town or township which, in the determination of the Secretary of the Treasury—

(i) possesses powers and performs functions comparable to those associated with municipalities,

(ii) is closely settled, and

(iii) contains within its boundaries no incorporated places, as defined by the Bureau of the Census,

within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government;

(2) ''county'' means any unit of local general government which is classified as a county by the Bureau of the Census and within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government;

(3) ''ordinance'' means an ordinance, order, resolution, or similar instrument which is duly adopted and approved by a city or county in accordance with the constitution and statutes of the State in which it is located and which has the force of law within such city or county; and

(4) ''agency'' means—

(A) an Executive agency;

(B) the judicial branch; and

(C) the United States Postal Service.

(Added Pub. L. 93–340, §1(a), July 10, 1974, 88 Stat. 294; amended Pub. L. 94–358, §1, July 12, 1976, 90 Stat. 910; Pub. L. 95–30, title IV, §408(a), May 23, 1977, 91 Stat. 157; Pub. L. 95–365, §1, Sept. 15, 1978, 92 Stat. 599; Pub. L. 100–180, div. A, title V, §505(2), Dec. 4, 1987, 101 Stat. 1086.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–180 inserted ''(other than service described in section 5517(d) of this title)'' after ''Armed Forces'' in penultimate sentence.

1978—Subsec. (a). Pub. L. 95–365 designated existing provisions as cl. (i), inserted '', or whose regular place of Federal employment is not within,'' after ''not a resident of'', and added cl. (ii).

1977—Pub. L. 95–30, §408(a)(1), inserted ''or county'' after ''city'' in section catchline.

Subsec. (a). Pub. L. 95–30, §408(a)(2), (3), substituted ''city or county'' for ''city'' in introductory provisions preceding par. (1), in par. (2), and in provisions following par. (2), and, in par. (1), substituted ''a designated city or county officer, department, or instrumentality'' for ''the city''.

Subsec. (b). Pub. L. 95–30, §408(a)(2), substituted ''city or county'' for ''city''.

Subsec. (c). Pub. L. 95–30, §408(a)(4), (5), added pars. (2) and (3) and redesignated former par. (2) as (4).

1976—Subsec. (c)(1). Pub. L. 94–358 substituted provision defining a city, for purposes of this section, as any unit of general local government which is classified a municipality by the Bureau of the Census, or is a town or township which in the opinion of the Secretary of the Treasury possesses powers and performs functions comparable to those associated with municipalities, is closely settled, and contains within its boundaries no incorporated places, as defined by the Bureau of the Census, within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government, for provision defining a city, for purposes of this section, as a city which is duly incorporated under the laws of a State and within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2 of Pub. L. 95–365 provided that: ''The amendments made by the first section of this Act [amending this section] shall take effect on the 90th day after the date of the enactment of this Act [Sept. 15, 1978].''

EFFECTIVE DATE OF 1977 AMENDMENT

Section 408(c) of Pub. L. 95–30 provided that: ''The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [May 23, 1977].''

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2 of Pub. L. 94–358 provided that: ''The amendment made by the first section of this Act [amending this section] shall take effect on the date of the enactment of this Act [July 12, 1976].''

EFFECTIVE DATE

Section 3 of Pub. L. 93–340 provided that: ''This section shall become effective on the date of enactment of this Act [July 10, 1974]. The provisions of the first section and section 2 of this Act [enacting this section and amending section 410 of Title 39, Postal Service] shall become effective on the ninetieth day following the date of enactment.''

EXECUTIVE ORDER NO. 11833

Ex. Ord. No. 11833, Jan. 13, 1975, 40 F.R. 2673, which related to the withholding of city income or employment

taxes by Federal agencies, was revoked by Ex. Ord. No. 11863, June 12, 1975, 40 F.R. 25413, formerly set out below.

EXECUTIVE ORDER NO. 11863

Ex. Ord. No. 11863, June 12, 1975, 40 F.R. 25431, which related to the withholding of city income or employment taxes by Federal agencies, was revoked by Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, formerly set out below.

EXECUTIVE ORDER NO. 11968

Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, which related to the withholding of District of Columbia, State and city income or employment taxes, was revoked by Ex. Ord. No. 11997, June 22, 1977, 42 F.R. 31759, set out below.

EX. ORD. NO. 11997. WITHHOLDING OF DISTRICT OF COLUMBIA, STATE, CITY AND COUNTY INCOME OR EMPLOYMENT TAXES

Ex. Ord. No. 11997, June 22, 1977, 42 F.R. 31759, provided:

By virtue of the authority vested in me by Sections 5516, 5517 and 5520 of Title 5 of the United States Code, and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to authorize the Secretary of the Treasury to provide for the withholding of county income or employment taxes as authorized by Section 5520 of Title 5 of the United States Code as amended by Section 408 of Public Law 95–30, as well as to provide for the withholding of District of Columbia, State and city income or employment taxes, it is hereby ordered as follows:

SECTION 1. Whenever the Secretary of the Treasury enters into an agreement pursuant to Sections 5516, 5517 or 5520 of Title 5 of the United States Code, with the District of Columbia, a State, a city or a county, as the case may be, with regard to the withholding, by an agency of the United States, hereinafter referred to as an agency, of income or employment taxes from the pay of Federal employees or members of the Armed Forces, the Secretary of the Treasury shall ensure that each agreement is consistent with those sections and regulations, including this Order, issued thereunder.

SEC. 2. Each agreement shall provide (a) when tax withholding shall begin, (b) that the head of an agency may rely on the withholding certificate of an employee or a member of the Armed Forces in withholding taxes, (c) that the method for calculating the amount to be withheld for District of Columbia, State, city or county income or employment taxes shall produce approximately the tax required to be withheld by the District of Columbia or State law; or city or county ordinance, whichever is applicable, and (d) that procedures for the withholding, filing of returns, and payment of the withheld taxes to the District of Columbia, a State, a city or a county shall conform to the usual fiscal practices of agencies. Any agreement affecting members of the Armed Forces shall also provide that the head of an agency may rely on the certificate of legal residence of a member of the Armed Forces in determining his or her residence for tax withholding purposes. No agreement shall require the collection by an agency of delinquent tax liabilities of an employee or a member of the Armed Forces.

SEC. 3. The head of each agency shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold taxes, file required returns, and direct payment of the taxes withheld, in accordance with this Order, any regulations prescribed by the Secretary of the Treasury, and the new applicable agreement.

SEC. 4. The Secretary of the Treasury is authorized to prescribe additional regulations to implement Sections 5516, 5517 and 5520 of Title 5 of the United States Code, and this Order.

SEC. 5. Executive Order No. 11968 of January 31, 1977, is hereby revoked. However, all actions heretofore taken by the President or his delegates in respect of the matters affected by this Order and in force at the time of the issuance of this Order, including any regulations prescribed or approved by the President or his delegates in respect of such matters and any existing agreements approved by his delegates, shall, except as they may be inconsistent with the provisions of this Order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this Order, unless sooner terminated by operation of law.

JIMMY CARTER.

§ 5520a. Garnishment of pay

(a) For purposes of this section—

(1) ''agency'' means each agency of the Federal Government, including—

(A) an executive agency, except for the Government Accountability Office;

(B) the United States Postal Service and the Postal Regulatory Commission;

(C) any agency of the judicial branch of the Government; and

(D) any agency of the legislative branch of the Government, including the Government Accountability Office, each office of a Member of Congress, a committee of the Congress, or other office of the Congress;

(2) ''employee'' means an employee of an agency (including a Member of Congress as defined under section 2106);

(3) ''legal process'' means any writ, order, summons, or other similar process in the nature of garnishment, that—

(A) is issued by a court of competent jurisdiction within any State, territory, or possession of the United States, or an authorized official pursuant to an order of such a court or pursuant to State or local law; and

(B) orders the employing agency of such employee to withhold an amount from the pay of such employee, and make a payment of such withholding to another person, for a specifically described satisfaction of a legal debt of the employee, or recovery of attorney's fees, interest, or court costs; and

(4) ''pay'' means—

(A) basic pay, premium pay paid under subchapter V, any payment received under subchapter VI, VII, or VIII, severance and back pay paid under subchapter IX, sick pay, incentive pay, and any other compensation paid or payable for personal services, whether such compensation is denominated as wages, salary, commission, bonus pay or otherwise; and

(B) does not include awards for making suggestions.

(b) Subject to the provisions of this section and the provisions of section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673) pay from an agency to an employee is subject to legal process in the same manner and to the same extent as if the agency were a private person.

(c)(1) Service of legal process to which an agency is subject under this section may be accomplished by certified or registered mail, return receipt requested, or by personal service, upon—

(A) the appropriate agent designated for receipt of such service of process pursuant to the regulations issued under this section; or

(B) the head of such agency, if no agent has been so designated.

(2) Such legal process shall be accompanied by sufficient information to permit prompt identification of the employee and the payments involved.

(d) Whenever any person, who is designated by law or regulation to accept service of process to which an agency is subject under this section, is effectively served with any such process or with interrogatories, such person shall respond thereto within thirty days (or within such longer period as may be prescribed by applicable State law) after the date effective service thereof is made, and shall, as soon as possible but not later than fifteen days after the date effective service is made, send written notice that such process has been so served (together with a copy thereof) to the affected employee at his or her duty station or last-known home address.

(e) No employee whose duties include responding to interrogatories pursuant to requirements imposed by this section shall be subject to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by such employee in connection with the carrying out of any of such employee's duties which pertain directly or indirectly to the answering of any such interrogatory.

(f) Agencies affected by legal process under this section shall not be required to vary their normal pay and disbursement cycles in order to comply with any such legal process.

(g) Neither the United States, an agency, nor any disbursing officer shall be liable with respect to any payment made from payments due or payable to an employee pursuant to legal process regular on its face, provided such payment is made in accordance with this section and the regulations issued to carry out this section. In determining the amount of any payment due from, or payable by, an agency to an employee, there shall be excluded those amounts which would be excluded under section 462(g) of the Social Security Act (42 U.S.C. 662(g)).

(h)(1) Subject to the provisions of paragraph (2), if an agency is served under this section with more than one legal process with respect to the same payments due or payable to an employee, then such payments shall be available, subject to section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673), to satisfy such processes in priority based on the time of service, with any such process being satisfied out of such amounts as remain after satisfaction of all such processes which have been previously served.

(2) A legal process to which an agency is subject under section 459 of the Social Security Act (42 U.S.C. 659) for the enforcement of the employee's legal obligation to provide child support or make alimony payments, shall have priority over any legal process to which an agency is subject under this section.

(i) The provisions of this section shall not modify or supersede the provisions of section 459 of the Social Security Act (42 U.S.C. 659) concerning legal process brought for the enforcement of an individual's legal obligations to provide child support or make alimony payments.

(j)(1) Regulations implementing the provisions of this section shall be promulgated—

(A) by the President or his designee for each executive agency, except with regard to employees of the United States Postal Service, the President or, at his discretion, the Postmaster General shall promulgate such regulations;

(B) jointly by the President pro tempore of the Senate and the Speaker of the House of Representatives, or their designee, for the legislative branch of the Government; and

(C) by the Chief Justice of the United States or his designee for the judicial branch of the Government.

(2) Such regulations shall provide that an agency's administrative costs in executing a garnishment action may be added to the garnishment, and that the agency may retain costs recovered as offsetting collections.

(k)(1) No later than 180 days after the date of the enactment of this Act, the Secretaries of the Executive departments concerned shall promulgate regulations to carry out the purposes of this section with regard to members of the uniformed services.

(2) Such regulations shall include provisions for—

(A) the involuntary allotment of the pay of a member of the uniformed services for indebtedness owed a third party as determined by the final judgment of a court of competent jurisdiction, and as further determined by competent military or executive authority, as appropriate, to be in compliance with the procedural requirements of the Servicemembers Civil Relief Act (50 App. U.S.C. 501 et seq.); and

(B) consideration for the absence of a member of the uniformed service from an appearance in a judicial proceeding resulting from the exigencies of military duty.

(3) The Secretaries of the Executive departments concerned shall promulgate regulations under this subsection that are, as far as practicable, uniform for all of the uniformed services. The Secretary of Defense shall consult with the Secretary of Homeland Security with regard to the promulgation of such regulations that might affect members of the Coast Guard when the Coast Guard is operating as a service in the Navy.

(Added Pub. L. 103–94, § 9(a), Oct. 6, 1993, 107 Stat. 1007; amended Pub. L. 104–106, div. A, title VI, § 643, Feb. 10, 1996, 110 Stat. 368; Pub. L. 104–193, title III, § 362(b)(2), Aug. 22, 1996, 110 Stat. 2246; Pub. L. 105–85, div. A, title XI, § 1105, Nov. 18, 1997, 111 Stat. 1923; Pub. L. 108–189, § 2(b)(1), Dec. 19, 2003, 117 Stat. 2865; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109–241, title IX, § 902(a)(3), July 11, 2006, 120 Stat. 566; Pub. L. 109–435, title VI, § 604(f), Dec. 20, 2006, 120 Stat. 3242.)

REFERENCES IN TEXT

The date of the enactment of this Act, referred to in subsec. (k)(1), probably means the date of enactment of Pub. L. 103–94, which enacted this section and was approved Oct. 6, 1993.

The Servicemembers Civil Relief Act, referred to in subsec. (k)(2)(A), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see section 501 of Title 50, Appendix, and Tables.

AMENDMENTS

2006—Subsec. (a)(1)(B). Pub. L. 109–435 substituted ''Postal Regulatory Commission'' for ''Postal Rate Commission''.

Subsec. (k)(3). Pub. L. 109–241 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

2004—Subsec. (a)(1)(A), (D). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

2003—Subsec. (k)(2)(A). Pub. L. 108–189 substituted ''Servicemembers Civil Relief Act'' for ''Soldiers' and Sailors' Civil Relief Act of 1940''.

1997—Subsec. (j)(2). Pub. L. 105–85, § 1105(1), added par. (2) and struck out former par. (2) which read as follows: ''Such regulations shall provide that an agency's administrative costs incurred in executing legal process to which the agency is subject under this section shall be deducted from the amount withheld from the pay of the employee concerned pursuant to the legal process.''

Subsec. (k)(3), (4). Pub. L. 105–85, § 1105(2), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: ''Regulations under this subsection may also provide that the administrative costs incurred in establishing and maintaining an involuntary allotment be deducted from the amount withheld from the pay of the member of the uniformed services concerned pursuant to such regulations.''

Subsec. (*l*). Pub. L. 105–85, § 1105(3), struck out subsec. (*l*) which read as follows: ''The amount of an agency's administrative costs deducted under regulations prescribed pursuant to subsection (j)(2) or (k)(3) shall be credited to the appropriation, fund, or account from which such administrative costs were paid.''

1996—Subsecs. (h)(2), (i). Pub. L. 104–193 substituted ''section 459 of the Social Security Act (42 U.S.C. 659)'' for ''sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)''.

Subsec. (j)(2). Pub. L. 104–106, § 643(a), added par. (2) and struck out former par. (2) which read as follows: ''Such regulations shall provide that an agency's administrative costs in executing a garnishment action may be added to the garnishment, and that the agency may retain costs recovered as offsetting collections.''

Subsec. (k)(3), (4). Pub. L. 104–106, § 643(b), added par. (3) and redesignated former par. (3) as (4).

Subsec. (*l*). Pub. L. 104–106, § 643(c), added subsec. (*l*).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective six months after Aug. 22, 1996, see section 362(d) of Pub. L. 104–193, set out as a note under section 659 of Title 42, The Public Health and Welfare.

For provisions relating to effective date of title III of Pub. L. 104–193, see section 395(a)–(c) of Pub. L. 104–193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE; SAVINGS PROVISION

Section effective 120 days after Oct. 6, 1993, and not to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103–94 had not been enacted, see section 12 of Pub. L. 103–94, set out as a note under section 7321 of this title.

PILOT PROGRAM ON ALTERNATIVE NOTICE OF RECEIPT OF LEGAL PROCESS FOR GARNISHMENT OF FEDERAL PAY FOR CHILD SUPPORT AND ALIMONY

Pub. L. 105–261, div. A, title X, § 1061, Oct. 17, 1998, 112 Stat. 2128, authorized the Secretary of Defense to conduct a pilot program on alternative notice procedures for withholding or garnishment of pay for the payment of child support and alimony under section 659 of Title 42, The Public Health and Welfare, required the Secretary to submit to Congress, not later than Jan. 1, 2001, a report describing the experience of the Department of Defense under the authority provided for the program, and provided for termination of pilot program on Sept. 30, 2001.

EX. ORD. NO. 12897. GARNISHMENT OF FEDERAL EMPLOYEES' PAY

Ex. Ord. No. 12897, Feb. 3, 1994, 59 F.R. 5517, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 5520a(j)(1)(A) of title 5, United States Code, as added by section 9 of Public Law 103–94, it is hereby ordered as follows:

SECTION 1. The Office of Personnel Management, in consultation with the Attorney General, is designated to promulgate regulations for the implementation of section 5520a of title 5, United States Code, with respect to civilian employees and agencies in the executive branch, except as provided in section 2 of this order.

SEC. 2. The Postmaster General is designated to promulgate regulations for the implementation of section 5520a of title 5, United States Code, with respect to employees of the United States Postal Service.

WILLIAM J. CLINTON.

SUBCHAPTER III—ADVANCEMENT, ALLOTMENT, AND ASSIGNMENT OF PAY

§ 5521. Definitions

For the purpose of this subchapter—

(1) ''agency'' means—

(A) an Executive agency;

(B) the judicial branch;

(C) the Library of Congress;

(D) the Government Printing Office; and

(E) the government of the District of Columbia;

(2) ''employee'' means an individual employed in or under an agency;

(3) ''head of each agency'' means—

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

(B) the Mayor of the District of Columbia with respect to the government of the District of Columbia; and

(4) ''United States'', when used in a geographical sense, means the several States and the District of Columbia.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 479; Pub. L. 90–623, § 1(10), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 96–54, § 2(a)(31), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3071.	Sept. 26, 1961, Pub. L. 87–304, § 1, 75 Stat. 662. June 24, 1965, Pub. L. 89–47, 79 Stat. 171.

In paragraph (1), the word ''agency'' is substituted for ''department''. The term ''Executive agency'' is substituted for the reference to ''each executive department of the Government of the United States of America; each agency or independent establishment in the executive branch of such Government; each corporation wholly owned or controlled by such Government'' in former section 3071(1)(A)–(C).

Paragraph (2) is added for clarity and in view of the fact that the definition of ''employee'' in section 2105 does not include individuals employed by the government of the District of Columbia.

In paragraph (3), the term ''department head'' is omitted as unnecessary.

In paragraph (4), the words ''of the United States of America'' 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.

AMENDMENTS

1979—Par. (3)(B). Pub. L. 96–54 substituted ''Mayor'' for ''Commissioner''.

1968—Par. (3)(B). Pub. L. 90–623 substituted ''Commissioner'' for ''Board of Commissioners''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 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.

§ 5522. Advance payments; rates; amounts recoverable

(a) The head of each agency may provide for the advance payment of the pay, allowances, and differentials, or any of them, covering a period of not more than 30 days, to or for the account of each employee of the agency (or, under emergency circumstances and on a reimbursable basis, an employee of another agency) whose departure (or that of his dependents or immediate family, as the case may be) from a place inside or outside the United States is officially authorized or ordered—

(1) from a place outside the United States from which the Secretary of State determines it is in the national interest to require the departure of some or all employees, their dependents, or both; or

(2) from any place where there is imminent danger to the life of the employee or the lives of the dependents or immediate family of the employee.

(b) Subject to adjustment of the account of an employee under section 5524 of this title and other applicable statute, the advance payment of pay, allowances, and differentials is at rates currently authorized with respect to the employee on the date the advance payment is made under agency procedures governing advance payments under this subsection. The rates so authorized may not exceed the rates to which the employee was entitled immediately before issuance of the departure order.

(c) An advance of funds under subsection (a) of this section is recoverable by the Government of the United States or the government of the District of Columbia, as the case may be, from the employee or his estate by—

(1) setoff against accrued pay, amount of retirement credit, or other amount due to the employee from the Government of the United States or the government of the District of Columbia; and

(2) such other method as is provided by law.

The head of the agency concerned may waive in whole or in part a right of recovery of an advance of funds under subsection (a) of this section, if it is shown that the recovery would be against equity and good conscience or against the public interest.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 480; Pub. L. 96–465, title II § 2303(a), (b), Oct. 17, 1980, 94 Stat. 2164, 2165.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3072.	Sept. 26, 1961, Pub. L. 87–304, § 2, 75 Stat. 662.

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

1980—Subsec. (a). Pub. L. 96–465, § 2303(a), substituted ''departure'' for ''evacuation'', substituted ''is officially authorized or ordered'' for ''is ordered for military or other reasons which create imminent danger to the life or lives of the employee or of his dependents or immediate family'', and added pars. (1) and (2).

Subsec. (b). Pub. L. 96–465, § 2303(b), substituted ''departure'' for ''evacuation'' after ''issuance of the''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

§ 5523. Duration of payments; rates; active service period

(a) The head of each agency may provide for—

(1) the payment of monetary amounts covering a period of not more than 60 days to or for the account of each employee of the agency (or, under emergency circumstances and on a reimbursable basis, an employee of another agency) whose departure (or that of the employee's dependents or immediate family, as the case may be) is authorized or ordered under section 5522(a); and

(2) the termination of payment of the monetary amounts.

The President, with respect to the Executive agencies, may extend the 60-day period for not more than 120 additional days if he determines that the extension of the period is in the interest of the United States.

(b) Subject to adjustment of the account of an employee under section 5524 of this title and other applicable statute, each payment under this section is at rates of pay, allowances, and differentials, or any of them, currently authorized with respect to the employee on the date payment is made under agency procedures governing payments under this section. The rates so authorized may not exceed the rates to which the employee was entitled immediately before issuance of the departure order. An employee in an Executive agency may be granted such additional allowance payments as the President determines necessary to offset the direct added expenses incident to the departure.

(c) Each period for which payment of amounts is made under this section to or for the account of an employee is deemed, for all purposes with respect to the employee, a period of active service, without break in service, performed by the employee in the employment of the Government of the United States or the government of the District of Columbia.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 480; Pub. L. 96–465, title II, § 2303(c), (d), Oct. 17, 1980, 94 Stat. 2165; Pub. L. 102–138, title I, § 147(a), Oct. 28, 1991, 105 Stat. 669.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3073.	Sept. 26, 1961, Pub. L. 87–304, § 3, 75 Stat. 663.

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

1991—Subsec. (a)(1). Pub. L. 102–138 substituted ''agency) whose departure (or that of the employee's dependents or immediate family, as the case may be) is authorized or ordered under section 5522(a); and'' for ''agency)—

''(A) whose departure is authorized or ordered under section 5522(a) of this title; and

''(B) who is prevented, by circumstances beyond his control and beyond the control of the Government of the United States or the government of the District of Columbia, or both, as the case may be, from performing the duties of the position which he held immediately before issuance of the departure order; and''.

1980—Subsec. (a)(1). Pub. L. 96–465, § 2303(c), in subpar. (A) substituted ''whose departure is authorized or ordered under section 5522(a) of this title; and'' for ''whose evacuation from a place inside or outside the United States is ordered for military or other reasons which create imminent danger to the life of the employee; and'', and in subpar. (B) substituted ''departure'' for ''evacuation'' after ''issuance of the''.

Subsec. (b). Pub. L. 96–465, § 2303(d), substituted ''departure'' for ''evacuation'' in two places.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

§ 5524. Review of accounts

The head of each agency shall provide for—

(1) the review of the account of each employee of the agency in receipt of payments under section 5522 or 5523 of this title, or both, as the case may be; and

(2) the adjustment of the amounts of the payments on the basis of—

(A) the rates of pay, allowances, and differentials to which the employee would have been entitled under applicable statute other than this subchapter for the respective periods covered by the payments, if he had performed active service under the terms of his appointment during each period in the position he held immediately before the issuance of the applicable evacuation order; and

(B) such additional amounts as the employee is authorized to receive in accordance with a determination of the President under section 5523(b) of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 481.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3074.	Sept. 26, 1961, Pub. L. 87–304, § 4, 75 Stat. 663.

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

§ 5524a. Advance payments for new appointees

(a) The head of each agency may provide for the advance payment of basic pay, covering not more than 2 pay periods, to any individual who is newly appointed to a position in the agency.

(b)(1) Subject to adjustment of the account of an employee under paragraph (2) and other applicable statutes, the advance payment of basic pay shall be made, under agency procedures governing advance payments under this section, at the initial rate of basic pay to be payable to the employee upon the commencement of service in the position to which appointed.

(2) The head of each agency shall provide for—

(A) the review of the account of each employee of the agency in receipt of any payment under this section; and

(B) the adjustment of the amount of any such payment on the basis of the rate of basic pay to which the employee would have been entitled under applicable statute other than this section for the respective periods covered by the payments, if the employee had performed active service under the terms of such employee's appointment during each period in the position to which appointed.

(c) An advance payment under this section is recoverable by the Government of the United States or the government of the District of Columbia, as the case may be, from the employee or such employee's estate by—

(1) setoff against accrued pay, amount of retirement credit, or other amount due to the employee from the Government of the United States or the government of the District of Columbia; and

(2) such other method as is provided by law.

The head of the agency concerned may waive in whole or in part a right of recovery of an advance payment under this section if it is shown that the recovery would be against equity and good conscience or against the public interest.

(Added Pub. L. 101–509, title V, § 529 [title I, § 107(a)], Nov. 5, 1990, 104 Stat. 1427, 1449.)

EFFECTIVE DATE

Section 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 an Effective Date of 1990 Amendment note under section 5301 of this title.

§ 5525. Allotment and assignment of pay

The head of each agency may establish procedures under which each employee of the agency is permitted to make allotments and assignments of amounts out of his pay for such purpose as the head of the agency considers appropriate. For purposes of this section, the term ''agency'' includes the Office of the Architect of the Capitol.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 481; Pub. L. 107–68, title I, § 133(b)(1), Nov. 12, 2001, 115 Stat. 582.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3075.	Sept. 26, 1961, Pub. L. 87–304, § 5, 75 Stat. 663.

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

2001—Pub. L. 107–68 inserted at end ''For purposes of this section, the term 'agency' includes the Office of the Architect of the Capitol.''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–68, title I, § 133(b)(2), Nov. 12, 2001, 115 Stat. 582, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to pay periods beginning on or after the date of the enactment of this Act [Nov. 12, 2001].''

§ 5526. Funds available on reimbursable basis

Funds available to an agency for payment of pay, allowances, and differentials to or for the accounts of employees of the agency are available on a reimbursable basis for payment of pay, allowances, and differentials to or for the accounts of employees of another agency under this subchapter.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 481.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 3078.	Sept. 26, 1961, Pub. L. 87–304, § 8, 75 Stat. 664.

The word ''civilian'' is omitted as unnecessary in view of the definition of ''employee'' in section 5521(2), and the fact that military personnel are not ''employed''.

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

§ 5527. Regulations

(a) To the extent practicable in the public interest, the President shall coordinate the policies and procedures of the respective Executive agencies under this subchapter.

(b) The President, with respect to the Executive agencies, the head of the agency concerned, with respect to the appropriate agency outside the executive branch, and the District of Columbia Council, with respect to the government of the District of Columbia, shall prescribe and issue, or provide for the formulation and issuance of, regulations necessary and appropriate to carry out the provisions, accomplish the purposes, and govern the administration of this subchapter.

(c) The head of each Executive agency may prescribe and issue regulations, not inconsistent with the regulations of the President issued under subsection (b) of this section, necessary and appropriate to carry out his functions under this subchapter.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 481; Pub. L. 90–623, § 1(11), Oct. 22, 1968, 82 Stat. 1312.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	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 nonappropriated 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 Management, 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 174k[1] 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

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	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''.

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.

[1] See References in Text note below.

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

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	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

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(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 Revised 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

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 51.	R.S. §170.
.....	5 U.S.C. 69 (less 1st 34 words).	R.S. §1764 (less 1st 34 words).
.....	5 U.S.C. 70.	R.S. §1765.
.....	5 U.S.C. 71.	June 20, 1874, ch. 328, §3, 18 Stat. 109.
		Sept. 3, 1954, ch. 1263, §7, 68 Stat. 1228.

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

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 30*o*.	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 reemployment 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;

(B) an individual employed by the government of the District of Columbia; and

(C) an employee in or under the judicial branch, the Library of Congress, the Botanic Garden, and the Office of the Architect of the Capitol, who occupies a position subject to chapter 51 and subchapter III of chapter 53 of this title;

but does not include—

(i) a justice or judge of the United States;

(ii) the head of an agency other than the government of the District of Columbia;

(iii) a teacher, school official, or employee of the Board of Education of the District of Columbia, whose pay is fixed under chapter 15 of title 31, District of Columbia Code;

(iv) a member of—

(I) the Metropolitan Police or the Fire Department of the District of Columbia; or

(II) a member of the United States Park Police, other than for purposes of section[1] 5545(a) and 5546;

(v) a student-employee as defined by section 5351 of this title;

[(vi) Repealed. Pub. L. 91–375, § 6(c)(16), Aug. 12, 1970, 84 Stat. 776;]

(vii) an employee outside the continental United States or in Alaska who is paid in accordance with local native prevailing wage rates for the area in which employed;

(viii) an employee of the Tennessee Valley Authority;

(ix) an individual to whom section 1291(a) of title 50, appendix, applies;

(x) an employee of a Federal land bank, a Federal intermediate credit bank, or a bank for cooperatives;

(xi) an employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under subchapter IV of chapter 53 of this title, or by a wage board or similar administrative authority serving the same purpose, except as provided by section 5544 or 5550b of this title;

(xii) an employee of the Transportation Corps of the Army on a vessel operated by the United States, a vessel employee of the Environmental Science Services Administration, or a vessel employee of the Department of the Interior;

(xiii) a ''teacher'' or an individual holding a ''teaching position'' as defined by section 901 of title 20;

(xiv) a Foreign Service officer;

(xv) a member of the Senior Foreign Service;

(xvi) member of the Senior Executive Service; or

(xvii) a member of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service; and

(3) ''law enforcement officer'' means an employee who—

(A) is a law enforcement officer within the meaning of section 8331(20) or 8401(17);

(B) in the case of an employee who holds a supervisory or administrative position and is subject to subchapter III of chapter 83, but

[1] So in original. Probably should be ''sections''.

who does not qualify to be considered a law enforcement officer within the meaning of section 8331(20), would so qualify if such employee had transferred directly to such position after serving as a law enforcement officer within the meaning of such section;

(C) in the case of an employee who holds a supervisory or administrative position and is subject to chapter 84, but who does not qualify to be considered a law enforcement officer within the meaning of section 8401(17), would so qualify if such employee had transferred directly to such position after performing duties described in section 8401(17)(A) and (B) for at least 3 years; and

(D) in the case of an employee who is not subject to subchapter III of chapter 83 or chapter 84—

(i) holds a position that the Office of Personnel Management determines would satisfy subparagraph (A), (B), or (C) if the employee were subject to subchapter III of chapter 83 or chapter 84; or

(ii) is a special agent in the Diplomatic Security Service.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 485; Pub. L. 90–83, § 1(4), Sept. 11, 1967, 81 Stat. 196; Pub. L. 91–375, § 6(c)(16), Aug. 12, 1970, 84 Stat. 776; Pub. L. 92–392, § 4, Aug. 14, 1972, 86 Stat. 573; Pub. L. 94–183, § 2(22), Dec. 31, 1975, 89 Stat. 1058; Pub. L. 95–105, title IV, § 412(a)(1), Aug. 17, 1977, 91 Stat. 855; Pub. L. 95–426, title II, § 204(b)(5)(B), Oct. 7, 1978, 92 Stat. 974; Pub. L. 95–454, title IV, § 408(a)(2), Oct. 13, 1978, 92 Stat. 1173; Pub. L. 96–70, title III, § 3302(e)(1), Sept. 27, 1979, 93 Stat. 498; Pub. L. 96–465, title II, § 2304, Oct. 17, 1980, 94 Stat. 2165; Pub. L. 100–325, § 2(i)(1), May 30, 1988, 102 Stat. 582; Pub. L. 101–509, title V, § 529 [title IV, § 411(a)], Nov. 5, 1990, 104 Stat. 1427, 1469; Pub. L. 102–378, § 2(40)(A)–(C), Oct. 2, 1992, 106 Stat. 1351; Pub. L. 104–201, div. C, title XXXV, § 3548(a)(6), Sept. 23, 1996, 110 Stat. 2869; Pub. L. 110–181, div. A, title XI, § 1111(b), Jan. 28, 2008, 122 Stat. 360; Pub. L. 111–282, § 4(c)(2), Oct. 15, 2010, 124 Stat. 3043.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 901(a), (d), (e).	June 30, 1945, ch. 212 § 101(a), (d), (e), 59 Stat. 295, 296. Sept. 1, 1954, ch. 1208, § 202(a), 68 Stat. 1109.
.....	5 U.S.C. 902 (less clause (1) and last sentence of (a)).	June 30, 1945, ch. 212, § 102 (less clause (1) and last sentence of (a)), 59 Stat. 296. May 24, 1946, ch. 270, § 8(a), 60 Stat. 218. Aug. 4, 1947, ch. 452, § 1, 61 Stat. 727. Aug. 18, 1959, Pub. L. 86–168, § 202(c) 73 Stat. 389.
.....	5 U.S.C. 2358(a) (as applicable to the Federal Employees Pay Act of 1945, as amended).	July 17, 1959, Pub. L. 86–91, § 10(a) (as applicable to the Federal Employees Pay Act of 1945, as amended), 73 Stat. 217.

The section is revised as a definition section. The provisions of former section 901(d) are omitted as unnecessary because the sections referred to state their application and there is no need to restate the application here.

In paragraph (1), the terms ''Executive agency'' and ''military department'' are substituted for the references in former section 901(a) and (e) to the executive branch, including Government-owned or controlled corporations, and the General Accounting Office in view of the definitions in sections 105 and 102.

In paragraph (2)(iii), the words ''chapter 15 of title 31, District of Columbia Code'' are substituted for the reference in former section 902(a)(4) to ''the Teachers Salary Act of June 4, 1924, as amended'' on authority of the provisions contained therein. Enumeration of the individuals to which the provisions apply are added.

In paragraph (2)(iv), the provisions of former section 902(a)(5) and (b)(6) are combined.

In paragraph (2)(v), the words ''student-employee as defined by section 5351 of this title'' are coextensive with and substituted for the enumeration of the employees in former section 902(a)(6).

In paragraph (2)(iv), (vi), (vii), (viii), (ix), (xi), and (xii), the reference to former section 947 is omitted as that section was repealed by the Act of Sept. 12, 1950, ch. 946, § 301(85), 64 Stat. 843.

In paragraph (2)(xii), the reference to former section 946 is omitted as unnecessary since that section is not carried into this subchapter. The words ''Panama Canal Company'' are substituted for ''Panama Railroad Company'' on authority of the Act of Sept. 2, 1950, ch. 1049, § 2(a)(2), 64 Stat. 1038.

In paragraph (2)(xiii), the words ''as defined by section 901 of title 20'' are added on authority of former section 2351, which section is scheduled for transfer to section 901 of title 20.

The exception for officers and employees of the Inland Waterways Corporation in former section 902(b)(3) is omitted on authority of the Act of July 19, 1963, Pub. L. 88–67, 77 Stat. 81.

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. (2)(iv)(II). Pub. L. 111–282 struck out ''a member of the United States Secret Service Uniformed Division,'' before ''a member of the United States Park Police''.

2008—Par. (2)(xi). Pub. L. 110–181 substituted ''section 5544 or 5550b'' for ''section 5544''.

1996—Par. (2)(xii). Pub. L. 104–201 inserted ''or'' after ''Services Administration,'' and struck out '', or a vessel employee of the Panama Canal Commission'' after ''Interior''.

1992—Par. (3). Pub. L. 102–378 added par. (3).

1990—Par. (2)(iv). Pub. L. 101–509 amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: ''a member of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, or the Executive Protective Service;''.

1988—Par. (2)(xvii). Pub. L. 100–325 added cl. (xvii).

1980—Par. (2)(xiv). Pub. L. 96–465 struck out ''within the meaning of section 401 of the Foreign Service Act of 1946'' after ''officer''.

Par. (2)(xv). Pub. L. 96–465 substituted ''a member of the Senior Foreign Service'' for ''a 'Foreign Service information officer' as provided for by the first section of the Act entitled 'An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the International Communication Agency through establishment of a Foreign Service Information Officer Corps', approved August 20, 1968''.

1979—Par. (2)(xii). Pub. L. 96–70 substituted ''Commission'' for ''Company''.

1978—Par. (2)(xvi). Pub. L. 95–454 added cl. (xvi).

Par. (2)(xv). Pub. L. 95–426 substituted ''International Communication Agency'' for ''United States Information Agency''.

1977—Par. (2)(xiv), (xv). Pub. L. 95–105 added cls. (xiv) and (xv).

1975—Par. (2)(iv). Pub. L. 94–183 substituted ''Executive Protective Service'' for ''White House Police''.

1972—Par. (2)(xi). Pub. L. 92–392 substituted ''pay'' for ''basic pay'' and provided for determination of pay under subchapter IV of chapter 53 of this title.

1970—Par. (2)(vi). Pub. L. 91–375 repealed cl. (vi) which excluded an employee in the postal field service from definition of ''employee''.

1967—Par. (2)(xii). Pub. L. 90–83 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''. See Historical and Revision Notes under section 2101 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–282 effective on first day of first pay period which begins after Oct. 15, 2010, see section 5 of Pub. L. 111–282, set out as a note under section 5102 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title XI, §1111(c), Jan. 28, 2008, 122 Stat. 360, provided that: ''The amendments made by this section [amending this section and section 5550b of this title] shall take effect on the earlier of—

''(1) the effective date of any regulations prescribed to carry out such amendments; or

''(2) the 90th day after the date of the enactment of this Act [Jan. 28, 2008].''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–378 effective as of first day of first applicable pay period beginning on or after Oct. 2, 1992, see section 9(b)(9) of Pub. L. 102–378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 529 [title IV, §411(b)] of Pub. L. 101–509 provided that: ''The amendment made by this section [amending this section] shall be effective on January 1, 1992.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

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 AMENDMENTS

Amendment by Pub. L. 95–454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95–454, see section 415 of Pub. L. 95–454, set out as an Effective Date note under section 3131 of this title.

Section 204(b)(5)(B) of Pub. L. 95–426 provided that the amendment made by such section 204(b)(5)(B) is effective Oct. 1, 1978.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 412(a)(2) of Pub. L. 95–105 provided that: ''The amendments made by paragraph (1) [amending this section] shall take effect on October 1, 1978.''

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as an Effective Date note under section 5341 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

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

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–329, title VI, §633(a), Sept. 30, 1994, 108 Stat. 2425, provided that: ''This section [enacting section 5545a of this title, amending sections 5542 and 5547 of this title and section 213 of Title 29, Labor, and enacting provisions set out as notes under section 5545a of this title] may be cited as the 'Law Enforcement Availability Pay Act of 1994'.''

TRANSFER OF FUNCTIONS

Environmental Science Services Administration in Department of Commerce, including offices of Administrator and Deputy Administrator thereof, abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to this title, which created National Oceanic and Atmospheric Administration in Department of Commerce and transferred personnel, property, records, and unexpended balances of funds of Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. Components of Environmental Science Services Administration thus transferred included Weather Bureau [now National Weather Service], Coast and Geodetic Survey [now National Ocean Survey], Environmental Data Service, National Environmental Satellite Center, and ESSA Research Laboratories.

AVAILABILITY OF PREMIUM PAY FOR ATTORNEYS EMPLOYED IN DEPARTMENT OF JUSTICE

Pub. L. 106–113, div. B, §1000(a)(1) [title I, §115], Nov. 29, 1999, 113 Stat. 1535, 1501A–21, provided that:

''(a) None of the funds made available by this or any other Act may be used to pay premium pay under title 5, United States Code, sections 5542–5549, to any individual employed as an attorney, including an Assistant United States Attorney, in the Department of Justice for any work performed on or after the date of the enactment of this Act [Nov. 29, 1999].

''(b) Notwithstanding any other provision of law, neither the United States nor any individual or entity acting on its behalf shall be liable for premium pay under title 5, United States Code, sections 5542–5549, for any work performed on or after the date of the enactment of this Act [Nov. 29, 1999] by any individual employed as an attorney in the Department of Justice, including an Assistant United States Attorney.''

[Pub. L. 106–553, §1(a)(2) [title I, §111], Dec. 21, 2000, 114 Stat. 2762, 2762A–68, provided that: ''Section 115 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(1) of Public Law 106–113) [set out above] shall apply hereafter.'']

SENSE OF CONGRESS RELATING TO LAW ENFORCEMENT OFFICER PROVISIONS

Section 2(40)(D) of Pub. L. 102–378 provided that: ''It is the sense of the Congress that—

''(i) the provisions of section 5541(3) of title 5, United States Code (as added by section 2(40)(C) of this Act)—

''(I) are enacted only for the purposes of pay and not for the purposes of retirement;

''(II) do not reflect any intent of the Congress to change retirement eligibility standards for law enforcement officers; and

''(ii) law enforcement officers in primary positions have different retirement eligibility standards than employees in supervisory or administrative positions because of the different requirements in their responsibilities.''

PAYMENT OF BONUSES FOR FOREIGN LANGUAGE CAPABILITIES

Pub. L. 100–690, title VI, §6401, Nov. 18, 1988, 102 Stat. 4370, as amended by Pub. L. 101–509, title V, §529 [title IV, §408(c)], Nov. 5, 1990, 104 Stat. 1427, 1468, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Drug Enforcement Administration and the Federal Bureau of Investigation are authorized on and after October 1, 1988, to pay bonuses up to 25 percent of base pay to employees of the Drug Enforcement Administration and the Federal Bureau of Investigation who possess and make substantial use of one or more languages, other than English, in the performance of their official duties. The Administrator of the Drug Enforcement Administration and the Director of the Federal Bureau of Investigation shall develop such policies as necessary to implement the payment of these bonuses.

''(b) LIMITATION.—The provisions of this section shall apply only to an employee who has received a bonus under this section before January 1, 1992. The provisions of subchapter III of chapter 45 of title 5, United States Code, shall apply to any employee who would otherwise be eligible to receive a bonus under this section, on and after such date.''

§ 5542. Overtime rates; computation

(a) For full-time, part-time and intermittent tours of duty, hours of work officially ordered or approved in excess of 40 hours in an administrative workweek, or (with the exception of an employee engaged in professional or technical engineering or scientific activities for whom the first 40 hours of duty in an administrative workweek is the basic workweek and an employee whose basic pay exceeds the minimum rate for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) for whom the first 40 hours of duty in an administrative workweek is the basic workweek) in excess of 8 hours in a day, performed by an employee are overtime work and shall be paid for, except as otherwise provided by this subchapter, at the following rates:

(1) For an employee whose basic pay is at a rate which does not exceed the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law), the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(2) For an employee whose basic pay is at a rate which exceeds the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law), the overtime hourly rate of pay is an amount equal to the greater of one and one-half times the hourly rate of the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) or the hourly rate of basic pay of the employee, and all that amount is premium pay.

(3) Notwithstanding paragraphs (1) and (2) of this subsection for an employee of the Department of Transportation who occupies a nonmanagerial position in GS–14 or under and, as determined by the Secretary of Transportation,

(A) the duties of which are critical to the immediate daily operation of the air traffic control system, directly affect aviation safety, and involve physical or mental strain or hardship;

(B) in which overtime work is therefore unusually taxing; and

(C) in which operating requirements cannot be met without substantial overtime work;

the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(4) Notwithstanding paragraph (2) of this subsection, for an employee who is a law enforcement officer, and whose basic pay is at a rate which exceeds the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law), the overtime hourly rate of pay is an amount equal to the greater of—

(A) one and one-half times the minimum hourly rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

(B) the hourly rate of basic pay of the employee,

and all that amount is premium pay.

(5) Notwithstanding paragraphs (1) and (2), for an employee of the Department of the Interior or the United States Forest Service in the Department of Agriculture engaged in emergency wildland fire suppression activities, the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(6)(A) Notwithstanding paragraphs (1) and (2), for an employee of the Department of the Navy who is assigned to temporary duty to perform work aboard, or dockside in direct support of, the nuclear aircraft carrier that is forward deployed in Japan and who would be nonexempt under the Fair Labor Standards Act but for the application of the foreign area exemption in section 13(f) of that Act (29 U.S.C. 213(f)), the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(B) Subparagraph (A) shall expire on September 30, 2014.

(b) For the purpose of this subchapter—

(1) unscheduled overtime work performed by an employee on a day when work was not scheduled for him, or for which he is required to return to his place of employment, is deemed at least 2 hours in duration; and

(2) time spent in a travel status away from the official-duty station of an employee is not hours of employment unless—

(A) the time spent is within the days and hours of the regularly scheduled administrative workweek of the employee, including regularly scheduled overtime hours; or

(B) the travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively, including travel by an employee to such an event and the return of such employee from such event to his or her official-duty station.

(c) Subsection (a) shall not apply to an employee who is subject to the overtime pay provisions of section 7 of the Fair labor[1] Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence.

(d) In applying subsection (a) of this section with respect to any criminal investigator who is paid availability pay under section 5545a—

(1) such investigator shall be compensated under such subsection (a), at the rates there provided, for overtime work which is scheduled in advance of the administrative workweek—

(A) in excess of 10 hours on a day during such investigator's basic 40 hour workweek; or

(B) on a day outside such investigator's basic 40 hour workweek; and

(2) such investigator shall be compensated for all other overtime work under section 5545a.

(e) Notwithstanding subsection (d)(1) of this section, all hours of overtime work scheduled in advance of the administrative workweek shall be compensated under subsection (a) if that work involves duties as authorized by section 3056(a) of title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956, and if the investigator performs, on that same day, at least 2 hours of overtime work not scheduled in advance of the administrative workweek.

(f) In applying subsection (a) of this section with respect to a firefighter who is subject to section 5545b—

(1) such subsection shall be deemed to apply to hours of work officially ordered or approved in excess of 106 hours in a biweekly pay period, or, if the agency establishes a weekly basis for overtime pay computation, in excess of 53 hours in an administrative workweek; and

(2) the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay under section 5545b(b)(1)(A) or (c)(1)(B), as applicable, and such overtime hourly rate of pay may not be less than such hourly rate of basic pay in applying the limitation on the overtime rate provided in paragraph (2) of such subsection (a).

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 485; Pub. L. 90–83, § 1(24), Sept. 11, 1967, 81 Stat. 200; Pub. L. 90–206, title II, § 222(a), Dec. 16, 1967, 81 Stat. 641; Pub. L. 90–556, § 1, Oct. 10, 1968, 82 Stat. 969; Pub. L. 92–194, Dec. 15, 1971, 85 Stat. 648; Pub. L. 98–473, title I, § 101(c) [title III, § 322], Oct. 12, 1984, 98 Stat. 1837, 1874; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(3)(E), title II, § 210(1), title IV, § 410(a)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1460, 1468; Pub. L. 102–378, § 2(41), Oct. 2, 1992, 106 Stat. 1352; Pub. L. 103–329, title VI, § 633(c), Sept. 30, 1994, 108 Stat. 2427; Pub. L. 104–52, title V, § 531, Nov. 19, 1995, 109 Stat. 496; Pub. L. 105–277, div. A, § 101(b) [title IV, § 407(c)(2)], (h) [title VI, § 628(a)(1)], div. G, subdiv. B, title XXIII, § 2316(c)(2), Oct. 21, 1998, 112 Stat. 2681–50, 2681–102, 2681–480, 2681–519, 2681–829; Pub. L. 106–558, § 2(a), Dec. 21, 2000, 114 Stat. 2776; Pub. L. 108–136, div. A, title XI, § 1121, Nov. 24, 2003, 117 Stat. 1636; Pub. L. 111–383, div. A, title XI, § 1105(a), Jan. 7, 2011, 124 Stat. 4383.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 911.	June 30, 1945, ch. 212, § 201, 59 Stat. 296. Sept. 1, 1954, ch. 1208, § 203, 68 Stat. 1109.
(b)	5 U.S.C. 912a. 5 U.S.C. 912b.	Sept. 1, 1954, ch. 1208, § 205(b), 68 Stat. 1110.

In subsection (a)(1), and (2), the word ''officer'' is omitted as included in ''employee''. The word ''scheduled'' is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87–793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. References to the ''Classification Act of 1949, as amended'' are omitted as unnecessary.

In subsection (b), former sections 912a and 912b are combined and restated.

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

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5542(a)	5 App.: 911.	July 18, 1966, Pub. L. 89–504, § 404(a), 80 Stat. 297.

The words ''of the Classification Act of 1949, as amended'' are omitted as unnecessary.

REFERENCES IN TEXT

GS–10 and GS–14, referred to in subsec. (a), are contained in the General Schedule which is set out under section 5332 of this title.

The Fair Labor Standards Act, referred to in subsec. (a)(6)(A), probably means the Fair Labor Standards Act of 1938, act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

Section 7 of the Fair Labor Standards Act of 1938, referred to in subsec. (c), is classified to section 207 of Title 29, Labor.

Section 37(a)(3) of the State Department Basic Authorities Act of 1956, referred to in subsec. (e), is classified to section 2709(a)(3) of Title 22, Foreign Relations and Intercourse.

[1] So in original. Probably should be capitalized.

AMENDMENTS

2011—Subsec. (a)(6). Pub. L. 111–383 added par. (6).

2003—Subsec. (a)(2). Pub. L. 108–136 inserted ''the greater of'' before ''one and one-half'' and ''or the hourly rate of basic pay of the employee'' before '', and all that amount''.

2000—Subsec. (a)(5). Pub. L. 106–558 added par. (5).

1998—Subsec. (e). Pub. L. 105–277, § 101(b) [title IV, § 407(c)(2)] and § 2316(c)(2), amended subsec. (e) identically, substituting ''title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956,'' for ''title 18, United States Code,''.

Subsec. (f). Pub. L. 105–277, § 101(h) [title VI, § 628(a)(1)], added subsec. (f).

1995—Subsec. (e). Pub. L. 104–52 added subsec. (e).

1994—Subsec. (d). Pub. L. 103–329 added subsec. (d).

1992—Subsec. (a)(4). Pub. L. 102–378, § 2(41)(A), substituted ''officer,'' for ''officer (within the meaning of section 8331(20) or 8401(17)),'' and realigned margin of closing provision.

Subsec. (c). Pub. L. 102–378, § 2(41)(B), amended second sentence generally. Prior to amendment, second sentence read as follows: ''In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid nonwork status shall be deemed to be hours of work.''

1990—Subsec. (a). Pub. L. 101–509, § 529 [title I, § 101(b)(3)(E)], inserted ''(including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law)'' after ''GS–10'' wherever appearing.

Subsec. (a)(4). Pub. L. 101–509, § 529 [title IV, § 410(a)], added par. (4).

Subsec. (c). Pub. L. 101–509, § 529 [title II, § 210(1)], added subsec. (c).

1984—Subsec. (b)(2)(B)(iv). Pub. L. 98–473 inserted '', including travel by an employee to such an event and the return of such employee from such event to his or her official-duty station''.

1971—Subsec. (a). Pub. L. 92–194 substituted ''For full-time, part-time and intermittent tours of duty, hours'' for ''Hours''.

1968—Subsec. (a)(3). Pub. L. 90–556 added par. (3).

1967—Subsec. (b)(2)(B). Pub. L. 90–206 designated existing provisions as cls. (i) and (iii) and added cls. (ii) and (iv).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–558, § 2(b), Dec. 21, 2000, 114 Stat. 2777, as amended by Pub. L. 107–20, title II, § 2605, July 24, 2001, 115 Stat. 178, provided that: ''The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [Dec. 21, 2000].''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. A, § 101(b) [title IV, § 407(d)], div. G, subdiv. B, title XXIII, § 2316(d), Oct. 21, 1998, 112 Stat. 2681–50, 2681–102, 2681–829, provided that: ''The amendments made by this section [amending this section and section 5545a of this title] shall take effect on the first day of the first applicable pay period—

''(1) which begins on or after the 90th day following the date of the enactment of this Act [Oct. 21, 1998]; and

''(2) on which date all regulations necessary to carry out such amendments are (in the judgment of the Director of the Office of Personnel Management and the Secretary of State) in effect.'' [Jan. 29, 1999, see 64 F.R. 4517.]

Amendment by section 101(h) [title VI, § 628(a)(1)] of Pub. L. 105–277 effective on first day of first applicable pay period which begins on or after Oct. 1, 1998, see section 101(h) [title VI, § 628(e)] of Pub. L. 105–277, set out as a note under section 4109 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–329 effective first day of first applicable pay period beginning on or after 30th day following Sept. 30, 1994, with exceptions relating to criminal investigators employed in Offices of Inspectors General, see section 633(e) of Pub. L. 103–329, set out as an Effective Date note under section 5545a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–378 effective as of first day of first applicable pay period beginning on or after Oct. 2, 1992, see section 9(b)(9) of Pub. L. 102–378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 529 [title I, § 101(b)(3)(E), title II, § 210(1)] of 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 1968 AMENDMENT

Section 3 of Pub. L. 90–556 provided that: ''The amendments made by this Act [amending this section and section 5545 of this title] shall take effect on the first day of the first pay period which begins on or after the thirtieth day after the date of enactment of this Act [Oct. 10, 1968].''

EFFECTIVE DATE OF 1967 AMENDMENT

Section 220(a)(4) of title II of Pub. L. 90–206 provided that, except as otherwise expressly provided: ''Sections 222 [enacting section 5733 of this title and amending this section, section 5544 of this title, section 3571 of Title 39, The Postal Service], and 223 [enacting section 5345 of this title] shall become effective thirty days after the date of enactment of this title [Dec. 16, 1967].''

§ 5543. Compensatory time off

(a) The head of an agency may—

(1) on request of an employee, grant the employee compensatory time off from his scheduled tour of duty instead of payment under section 5542 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in irregular or occasional overtime work; and

(2) provide that an employee whose rate of basic pay is in excess of the maximum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) shall be granted compensatory time off from his scheduled tour of duty equal to the amount of time spent in irregular or occasional overtime work instead of being paid for that work under section 5542 of this title.

(b) The head of an agency may, on request of an employee, grant the employee compensatory time off from the employee's scheduled tour of duty instead of payment under section 5544 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in irregular or occasional overtime work. An agency head may not require an employee to be compensated for overtime work with an equivalent amount of compensatory time-off from the employee's tour of duty.

(c) The Architect of the Capitol may grant an employee paid on an annual basis compensatory time off from duty instead of overtime pay for overtime work.

(d)(1) The appropriate Secretary may, on request of an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), grant such employee compensatory time off from duty instead of overtime pay for overtime work.

(2) For purposes of this subsection, the term ''appropriate Secretary'' means—

(A) with respect to an employee of a nonappropriated fund instrumentality of the Department of Defense, the Secretary of Defense; and

(B) with respect to an employee of a nonappropriated fund instrumentality of the Coast Guard, the Secretary of the Executive department in which it is operating.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 486; Pub. L. 90–83, § 1(25), Sept. 11, 1967, 81 Stat. 200; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(3)(E), title II, § 210(2)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1460; Pub. L. 104–201, div. A, title XVI, § 1610(a), Sept. 23, 1996, 110 Stat. 2738; Pub. L. 109–163, div. A, title VI, § 674, Jan. 6, 2006, 119 Stat. 3319.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 912.	June 30, 1945, ch. 212, § 202, 59 Stat. 297. May 24, 1946, ch. 270, § 9, 60 Stat. 218. Sept. 1, 1954, ch. 1208, § 204, 68 Stat. 1109.

In subsection (a), the words ''head of an agency'' are substituted for ''head of any department, independent establishment, or agency, including Government-owned or controlled corporations, or of the municipal government of the District of Columbia, or the head of any legislative or judicial agency to which this subchapter applies'' because of the definition of ''agency'' and the application stated in section 5541.

In subsection (a)(1), the word ''officer'' is omitted as included in ''employee''.

In subsection (a)(2), the words ''at his own discretion'' are omitted as unnecessary in view of the permissive nature of the authority. The word ''officer'' is omitted as included in ''employee''. The word ''scheduled'' is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87–793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. Reference to the ''Classification Act of 1949, as amended'' is omitted as unnecessary.

In subsection (b), the words ''in his discretion'' are omitted as unnecessary in view of the permissive nature of the authority. The words ''overtime work'' are substituted for ''any work in excess of forty hours in any regularly scheduled administrative workweek'' because of the definition of ''overtime work'' in section 5542(a).

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

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5543(a)(2) ...	5 App.: 912.	July 18, 1966, Pub. L. 89–504, § 404(b), 80 Stat. 297.

REFERENCES IN TEXT

Section 7 of the Fair Labor Standards Act of 1938, referred to in subsecs. (a)(1) and (b), is classified to section 207 of Title 29, Labor.

GS–10, referred to in subsec. (a)(2), is contained in the General Schedule which is set out under section 5332 of this title.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–163 added subsec. (d).

1996—Subsecs. (b), (c). Pub. L. 104–201 added subsec. (b) and redesignated former subsec. (b) as (c).

1990—Subsec. (a)(1). Pub. L. 101–509, § 529 [title II, § 210(2)], inserted ''under section 5542 or section 7 of the Fair Labor Standards Act of 1938'' after ''payment''.

Subsec. (a)(2). Pub. L. 101–509, § 529 [title I, § 101(b)(3)(E)], inserted ''(including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law)'' after ''GS–10''.

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.

§ 5544. Wage-board overtime and Sunday rates; computation

(a) An employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, is entitled to overtime pay for overtime work in excess of 8 hours a day or 40 hours a week. However, an employee subject to this subsection who regularly is required to remain at or within the confines of his post of duty in excess of 8 hours a day in a standby or on-call status is entitled to overtime pay only for hours of duty, exclusive of eating and sleeping time, in excess of 40 a week. The overtime hourly rate of pay is computed as follows:

(1) If the basic rate of pay of the employee is fixed on a basis other than an annual or monthly basis, multiply the basic hourly rate of pay by not less than one and one-half.

(2) If the basic rate of pay of the employee is fixed on an annual basis, divide the basic annual rate of pay by 2,087, and multiply the quotient by one and one-half.

(3) If the basic rate of pay of the employee is fixed on a monthly basis, multiply the basic monthly rate of pay by 12 to derive a basic annual rate of pay, divide the basic annual rate of pay by 2,087, and multiply the quotient by one and one-half.

An employee subject to this subsection whose regular work schedule includes an 8-hour period of service a part of which is on Sunday is entitled to additional pay at the rate of 25 percent of his hourly rate of basic pay for each hour of work performed during that 8-hour period of service. For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday. Time spent in a travel status away from the official duty station of an employee subject to this sub-

section is not hours of work unless the travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively (including travel by the employee to such event and the return of the employee from such event to the employee's official duty station). The first and third sentences of this subsection shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to the first and third sentences of this subsection, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence.

(b) An employee under the Office of the Architect of the Capitol who is paid on a daily or hourly basis and who is not subject to chapter 51 and subchapter III of chapter 53 of this title is entitled to overtime pay for overtime work in accordance with subsection (a) of this section. The overtime hourly rate of pay is computed in accordance with subsection (a)(1) of this section.

(c) The provisions of this section, including the last two sentences of subsection (a) and the provisions of section 5543(b), shall apply to a prevailing rate employee described in section 5342(a)(2)(B).

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 486; Pub. L. 90–83, § 1(26)(A), Sept. 11, 1967, 81 Stat. 200; Pub. L. 90–206, title II, § 222(d), Dec. 16, 1967, 81 Stat. 641; Pub. L. 92–392, § 5, Aug. 19, 1972, 86 Stat. 573; Pub. L. 101–509, title V, § 529 [title II, § 210(3)], Nov. 5, 1990, 104 Stat. 1427, 1460; Pub. L. 102–378, § 2(42), Oct. 2, 1992, 106 Stat. 1352; Pub. L. 104–201, div. A, title XVI, § 1610(b), Sept. 23, 1996, 110 Stat. 2738; Pub. L. 105–277, div. G, subdiv. B, title XXIII, § 2317(1), Oct. 21, 1998, 112 Stat. 2681–829; Pub. L. 110–181, div. A, title XI, § 1110, Jan. 28, 2008, 122 Stat. 360.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 673c (2d proviso).	Mar. 28, 1934, ch. 102, § 23 (proviso), 48 Stat. 522. Aug. 13, 1962, Pub. L. 87–581, § 201 (2d proviso), 76 Stat. 360.
	5 U.S.C. 913.	June 30, 1945, ch. 212, § 203, 59 Stat. 297. Sept. 1, 1954, ch. 1208, § 205(a), 68 Stat. 1109.
(b)	5 U.S.C. 933 (as applicable to 5 U.S.C. 673c).	June 30, 1945, ch. 212, § 503 (as applicable to § 23 of the Act of Mar. 28, 1934, ch. 102, 48 Stat. 522, as amended), 59 Stat. 301.

In subsection (a), former sections 673c (2d proviso) and 913 are combined and restated for clarity and conciseness. The last 28 words of section 205(a) of the Act of Sept. 1, 1954, 68 Stat. 1109, are omitted as executed and covered by technical section 8.

Subsection (b) is restated to conform to subsection (a). In former section 933, the words ''Classification Act of 1949'' were substituted for ''Classification Act of 1923'' on authority of section 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 972.

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

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5544(a)	5 App.: 673c (last proviso of 1st par.).	July 18, 1966, Pub. L. 89–504, § 405(f), 80 Stat. 298.

The words ''a part of which is on Sunday'' are coextensive with and substituted for ''any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday.'' The words ''is entitled to additional pay'' are coextensive with and substituted for ''shall be paid extra compensation.''

REFERENCES IN TEXT

Section 7 of the Fair Labor Standards Act of 1938, referred to in subsec. (a), is classified to section 207 of Title 29, Labor.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181, in third sentence of concluding provisions, substituted ''administratively (including travel by the employee to such event and the return of the employee from such event to the employee's official duty station).'' for ''administratively.''

1998—Subsec. (a). Pub. L. 105–277, which directed the amendment of subsec. (a) by inserting after the fourth sentence ''For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.'', was executed by making the insertion after the first sentence of the concluding provisions, to reflect the probable intent of Congress.

1996—Subsec. (c). Pub. L. 104–201 inserted ''and the provisions of section 5543(b)'' after ''the last two sentences of subsection (a)''.

1992—Subsec. (a). Pub. L. 102–378, § 2(42)(B), amended last two sentences generally. Prior to amendment, last two sentences read as follows: ''This section, other than the sixth sentence, shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid nonwork status shall be deemed to be hours of work.''

Subsec. (a)(2), (3). Pub. L. 102–378, § 2(42)(A), substituted ''2,087'' for ''2,080''.

Subsec. (c). Pub. L. 102–378, § 2(42)(C), added subsec. (c).

1990—Subsec. (a). Pub. L. 101–509 inserted at end ''This section, other than the sixth sentence, shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid nonwork status shall be deemed to be hours of work.''

1972—Subsec. (a). Pub. L. 92–392 substituted ''pay'' for ''basic pay'' and provided for determination of pay under section 5343 or 5349 of this title.

1967—Subsec. (a). Pub. L. 90–206 provided that time spent in a travel status away from the official duty station could not qualify as hours of work unless the trav-

el involved the performance of work while traveling, was incident to travel involving the performance of work while traveling, carried out under arduous conditions, or resulting from an event which could not be scheduled or controlled administratively.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–378 effective as of first day of first applicable pay period beginning on or after Oct. 2, 1992, see section 9(b)(9) of Pub. L. 102–378, set out as a note under section 6303 of this title.

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 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as an Effective Date note under section 5341 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–206 effective thirty days after Dec. 16, 1967, see section 220(a)(4) of Pub. L. 90–206, set out as a note under section 5542 of this title.

CANAL ZONE EMPLOYEES

Section 17(3) of Pub. L. 85–550, July 25, 1958, 72 Stat. 411, provided that nothing in Pub. L. 85–550, which related to wage and employment practices of the Government of the United States in the Canal Zone, should affect the applicability of former sections 673c and 913 of this title [covered by this section] to those classes of employees, within the scope of former sections 673c and 913 of this title [covered by this section] on July 25, 1958.

§ 5545. Night, standby, irregular, and hazardous duty differential

(a) Except as provided by subsection (b) of this section, nightwork is regularly scheduled work between the hours of 6:00 p.m. and 6:00 a.m., and includes—

(1) periods of absence with pay during these hours due to holidays; and

(2) periods of leave with pay during these hours if the periods of leave with pay during a pay period total less than 8 hours.

Except as otherwise provided by subsection (c) of this section, an employee is entitled to pay for nightwork at his rate of basic pay plus premium pay amounting to 10 percent of that basic rate. This subsection and subsection (b) of this section do not modify section 5141 of title 31, or other statute authorizing additional pay for nightwork.

(b) The head of an agency may designate a time after 6:00 p.m. and a time before 6:00 a.m. as the beginning and end, respectively, of nightwork for the purpose of subsection (a) of this section, at a post outside the United States where the customary hours of business extend into the hours of nightwork provided by subsection (a) of this section.

(c) The head of an agency, with the approval of the Office of Personnel Management, may provide that—

(1) an employee in a position requiring him regularly to remain at, or within the confines of, his station during longer than ordinary periods of duty, a substantial part of which consists of remaining in a standby status rather than performing work, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for irregular, unscheduled overtime duty in excess of his regularly scheduled weekly tour. Premium pay under this paragraph is determined as an appropriate percentage, not in excess of 25 percent, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) (or, for a position described in section 5542(a)(3) of this title, of the basic pay of the position), by taking into consideration the number of hours of actual work required in the position, the number of hours required in a standby status at or within the confines of the station, the extent to which the duties of the position are made more onerous by night, Sunday, or holiday work, or by being extended over periods of more than 40 hours a week, and other relevant factors; or

(2) an employee in a position in which the hours of duty cannot be controlled administratively, and which requires substantial amounts of irregular, unscheduled overtime duty with the employee generally being responsible for recognizing, without supervision, circumstances which require the employee to remain on duty, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for regularly scheduled overtime, night, and Sunday duty, and for holiday duty. Premium pay under this paragraph is an appropriate percentage, not less than 10 percent nor more than 25 percent, of the rate of basic pay for the position, as determined by taking into consideration the frequency and duration of irregular, unscheduled overtime duty required in the position.

(d) The Office shall establish a schedule or schedules of pay differentials for duty involving unusual physical hardship or hazard, and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970. Under such regulations as the Office may prescribe, and for such minimum periods as it determines appropriate, an employee to whom chapter 51 and subchapter III of chapter 53 of this title applies is entitled to be paid the appropriate differential for any period in which he is subjected to physical hardship or hazard not usually involved in carrying out the duties of his position. However, the pay differential—

(1) does not apply to an employee in a position the classification of which takes into account the degree of physical hardship or hazard involved in the performance of the duties thereof, except in such circumstances as the Office may by regulation prescribe; and

(2) may not exceed an amount equal to 25 percent of the rate of basic pay applicable to the employee.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 487; Pub. L. 90–83, § 1(27), Sept. 11, 1967, 81 Stat. 200; Pub. L. 90–206, title II, § 217, Dec. 16, 1967, 81 Stat. 638; Pub. L. 90–556, § 2, Oct. 10, 1968, 82 Stat. 969; Pub. L. 91–231, § 8, Apr. 15, 1970, 84 Stat. 198; Pub. L. 94–183, § 2(23), Dec. 31, 1975, 89 Stat. 1058; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96–54, § 2(a)(32), Aug. 14, 1979, 93 Stat. 383; Pub. L. 97–258, § 3(a)(13), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 101–173, § 1(a), Nov. 27, 1989, 103 Stat. 1292; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(3)(E), title II, § 203], Nov. 5, 1990, 104 Stat. 1427, 1439, 1456; Pub. L. 102–378, § 3(2), Oct. 2, 1992, 106 Stat. 1355; Pub. L. 108–136, div. A, title XI, § 1122(b), Nov. 24, 2003, 117 Stat. 1637.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b)	5 U.S.C. 921.	June 30, 1945, ch. 212, § 301, 59 Stat. 298. May 24, 1946, ch. 270, § 10, 60 Stat. 218. Sept. 1, 1954, ch. 1208, § 206, 68 Stat. 1110.
(c)	5 U.S.C. 926.	Sept. 1, 1954, ch. 1208, § 208(a), 68 Stat. 1111. July 18, 1958, Pub. L. 85–525, 72 Stat. 363.

In subsection (b), the words ''head of an agency'' are substituted for ''head of any department, independent establishment, or agency, including Government-owned or controlled corporations'' because of the definition of ''agency'' and the application stated in section 5541. The words ''the United States'' are substituted for ''the several States and the District of Columbia''.

In subsection (c), the words ''head of an agency'' are substituted for ''head of any department, independent establishment, or agency, including Government-owned or controlled corporations, or of the municipal government of the District of Columbia'' because of the definition of ''agency'' and the application stated in section 5541. The word ''officer'' is omitted as included in ''employee''. The word ''scheduled'' is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87–793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. Reference to the ''Classification Act of 1949, as amended'' is 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.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5545(c)	5 App.: 926.	July 18, 1966, Pub. L. 89–504 §§ 404(c), 405(d), (e), 80 Stat. 297, 298.
5545(d)	5 App.: 1134.	July 19, 1966, Pub. L. 89–512, § 1, 80 Stat. 318.

In the second sentence of subsection (d), the words ''Under such regulations as the Commission may prescribe, and for such minimum periods as it determines appropriate'' are substituted for clauses (3) and (4) of the third sentence of 5 App. U.S.C. 1134. That requirement in clause (4) that the Commission prescribe regulations is codified in 5 U.S.C. 5548(b) by section 1 (32) of this bill. The words ''an employee to whom chapter 51 and subchapter III of chapter 53 of this title applies is entitled to be paid the appropriate differential'' are substituted for ''The appropriate differential shall be paid to any officer or employee to whom this Act applies'' to reflect the codification of that act (Classification Act of 1949) in title 5, United States Code, and to conform with the definitions applicable.

In subsection (d)(1), the words ''does not apply to an employee'' are substituted for ''shall not be applicable with respect to any officer or employee.''

In subsection (d)(2), the words ''may not . . . applicable to the employee'' are substituted for ''shall not . . . applicable with respect to such officer or employee''.

REFERENCES IN TEXT

GS–10, referred to in subsec. (c)(1), is contained in the General Schedule which is set out under section 5332 of this title.

The Occupational Safety and Health Act of 1970, referred to in subsec. (d), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§ 651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

AMENDMENTS

2003—Subsec. (d). Pub. L. 108–136 inserted before period at end of first sentence '', and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970''.

1992—Subsec. (d). Pub. L. 102–378 made technical correction to directory language of Pub. L. 101–509, § 529 [title II, § 203]. See 1990 Amendment note below.

1990—Subsec. (c)(1). Pub. L. 101–509, § 529 [title I, § 101(b)(3)(E)], inserted ''(including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law)'' after ''GS–10''.

Subsec. (d). Pub. L. 101–509, § 529 [title II, § 203], as amended by Pub. L. 102–378, struck out ''irregular or intermittent'' before ''duty involving unusual'' in first sentence and inserted '', except in such circumstances as the Office may by regulation prescribe'' after ''thereof'' in par. (1).

1989—Subsec. (c)(2). Pub. L. 101–173 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''an employee in a position in which the hours of duty cannot be controlled administratively, and which requires substantial amounts of irregular, unscheduled, overtime duty with the employee generally being responsible for recognizing, without supervision, circumstances which require him to remain on duty, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for regularly scheduled overtime, night, and Sunday duty, and for holiday duty. Premium pay under this paragraph is determined as an appropriate percentage, not less than 10 percent nor more than 25 percent, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS–10, by taking into consideration the frequency and duration of irregular unscheduled overtime duty required in the position.''

1982—Subsec. (a). Pub. L. 97–258 substituted ''section 5141'' for ''section 180''.

1979—Subsec. (c)(2). Pub. L. 96–54 substituted ''percent'' for ''per centum'' wherever appearing.

1978—Subsecs. (c), (d). Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission'' and ''Office'' for ''Commission'' wherever appearing.

1975—Pub. L. 94–183 struck out ''Sunday,'' after ''Night,'' in section catchline.

1970—Subsec. (c)(2). Pub. L. 91–231 corrected the system of premium compensation of employees whose work schedules cannot be administratively controlled

by providing for separate treatment for irregular, unscheduled, and overtime duty on one hand and for duty at night, on Sundays, and on holidays on the other.

1968—Subsec. (c)(1). Pub. L. 90–556 inserted ''(or, for a position described in section 5542(a)(3) of this title, of the basic pay of the position)'' after ''GS–10''.

1967—Subsec. (e)(2). Pub. L. 90–206 substituted ''not less than 10 percent nor more than 25 percent'' for ''not in excess of 15 percent''.

EFFECTIVE DATE OF 2003 AMENDMENT

Subject to any vested constitutional property rights, any administrative or judicial determination after Nov. 24, 2003, concerning backpay for a differential established under subsec. (d) of this section to be based on occupational safety and health standards described in the amendments made by subsections (a) and (b) of section 1122 of Pub. L. 108–136, amending this section and section 5343 of this title, see section 1122(c) of Pub. L. 108–136, set out as a note under section 5343 of this title.

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 1(b) of Pub. L. 101–173 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to overtime duty performed on or after the first day of the first applicable pay period beginning after September 30, 1990.''

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 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.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–231 effective Apr. 15, 1970, see section 9(b) of Pub. L. 91–231, formerly set out in a 1970 Increase in Pay Rates note under section 5332 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–556 effective on first day of first pay period beginning on or after thirtieth day after Oct. 10, 1968, see section 3 of Pub. L. 90–556, set out as a note under section 5542 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

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.

§ 5545a. Availability pay for criminal investigators

(a) For purposes of this section—

(1) the term ''available'' refers to the availability of a criminal investigator and means that an investigator shall be considered generally and reasonably accessible by the agency employing such investigator to perform unscheduled duty based on the needs of an agency;

(2) the term ''criminal investigator'' means a law enforcement officer as defined under section 5541(3) (other than an officer occupying a position under title II of Public Law 99–399, subject to subsection (k)) who is required to—

(A) possess a knowledge of investigative techniques, laws of evidence, rules of criminal procedure, and precedent court decisions concerning admissibility of evidence, constitutional rights, search and seizure, and related issues;

(B) recognize, develop, and present evidence that reconstructs events, sequences and time elements for presentation in various legal hearings and court proceedings;

(C) demonstrate skills in applying surveillance techniques, undercover work, and advising and assisting the United States Attorney in and out of court;

(D) demonstrate the ability to apply the full range of knowledge, skills, and abilities necessary for cases which are complex and unfold over a long period of time (as distinguished from certain other occupations that require the use of some investigative techniques in short-term situations that may end in arrest or detention);

(E) possess knowledge of criminal laws and Federal rules of procedure which apply to cases involving crimes against the United States, including—

(i) knowledge of the elements of a crime;

(ii) evidence required to prove the crime;

(iii) decisions involving arrest authority;

(iv) methods of criminal operations; and

(v) availability of detection devices; and

(F) possess the ability to follow leads that indicate a crime will be committed rather than initiate an investigation after a crime is committed;

(3) the term ''unscheduled duty'' means hours of duty a criminal investigator works, or is determined to be available for work, that are not—

(A) part of the 40 hours in the basic work week of the investigator; or

(B) overtime hours paid under section 5542; and

(4) the term ''regular work day'' means each day in the investigator's basic work week during which the investigator works at least 4 hours that are not overtime hours paid under section 5542 or hours considered part of section 5545a.

(b) The purpose of this section is to provide premium pay to criminal investigators to ensure the availability of criminal investigators for unscheduled duty in excess of a 40 hour work week based on the needs of the employing agency.

(c) Each criminal investigator shall be paid availability pay as provided under this section. Availability pay shall be paid to ensure the availability of the investigator for unscheduled duty. The investigator is generally responsible for recognizing, without supervision, circumstances which require the investigator to be on duty or be available for unscheduled duty based on the needs of the agency. Availability pay provided to a criminal investigator for such unscheduled duty shall be paid instead of premium pay provided by other provisions of this sub-

chapter, except premium pay for regularly scheduled overtime work as provided under section 5542, night duty, Sunday duty, and holiday duty.

(d)(1) A criminal investigator shall be paid availability pay, if the average of hours described under paragraph (2)(A) and (B) is equal to or greater than 2 hours.

(2) The hours referred to under paragraph (1) are—

(A) the annual average of unscheduled duty hours worked by the investigator in excess of each regular work day; and

(B) the annual average of unscheduled duty hours such investigator is available to work on each regular work day upon request of the employing agency.

(3) Unscheduled duty hours which are worked by an investigator on days that are not regular work days shall be considered in the calculation of the annual average of unscheduled duty hours worked or available for purposes of certification.

(4) An investigator shall be considered to be available when the investigator cannot reasonably and generally be accessible due to a status or assignment which is the result of an agency direction, order, or approval as provided under subsection (f)(1).

(e)(1) Each criminal investigator receiving availability pay under this section and the appropriate supervisory officer, to be designated by the head of the agency, shall make an annual certification to the head of the agency that the investigator has met, and is expected to meet, the requirements of subsection (d). The head of a law enforcement agency may prescribe regulations necessary to administer this subsection.

(2) Involuntary reduction in pay resulting from a denial of certification under paragraph (1) shall be a reduction in pay for purposes of section 7512(4) of this title.

(f)(1) A criminal investigator who is eligible for availability pay shall receive such pay during any period such investigator is—

(A) attending agency sanctioned training;

(B) on agency approved sick leave or annual leave;

(C) on agency ordered travel status; or

(D) on excused absence with pay for relocation purposes.

(2) Notwithstanding paragraph (1)(A), agencies or departments may provide availability pay to investigators during training which is considered initial, basic training usually provided in the first year of service.

(3) Agencies or departments may provide availability pay to investigators when on excused absence with pay, except as provided in paragraph (1)(D).

(g) Section 5545(c) shall not apply to any criminal investigator who is paid availability pay under this section.

(h) Availability pay under this section shall be—

(1) 25 percent of the rate of basic pay for the position; and

(2) treated as part of the basic pay for purposes of—

(A) sections 5595(c), 8114(e), 8331(3), and 8704(c); and

(B) such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe.

(i) The provisions of subsections (a)–(h) providing for availability pay shall apply to a pilot employed by the United States Customs Service who is a law enforcement officer as defined under section 5541(3). For the purpose of this section, section 5542(d) of this title, and section 13(a)(16) and (b)(30) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(16) and (b)(30)), such pilot shall be deemed to be a criminal investigator as defined in this section. The Office of Personnel Management may prescribe regulations to carry out this subsection.

(j) Notwithstanding any other provision of this section, any Office of Inspector General which employs fewer than 5 criminal investigators may elect not to cover such criminal investigators under this section.

(k)(1) For purposes of this section, the term ''criminal investigator'' includes a special agent occupying a position under title II of Public Law 99–399 if such special agent—

(A) meets the definition of such term under paragraph (2) of subsection (a) (applied disregarding the parenthetical matter before subparagraph (A) thereof); and

(B) such special agent satisfies the requirements of subsection (d) without taking into account any hours described in paragraph (2)(B) thereof.

(2) In applying subsection (h) with respect to a special agent under this subsection—

(A) any reference in such subsection to ''basic pay'' shall be considered to include amounts designated as ''salary'';

(B) paragraph (2)(A) of such subsection shall be considered to include (in addition to the provisions of law specified therein) sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980; and

(C) paragraph (2)(B) of such subsection shall be applied by substituting for ''Office of Personnel Management'' the following: ''Office of Personnel Management or the Secretary of State (to the extent that matters exclusively within the jurisdiction of the Secretary are concerned)''.

(Added Pub. L. 103–329, title VI, § 633(b)(1), Sept. 30, 1994, 108 Stat. 2425; amended Pub. L. 104–19, title I, §§ 901, 902(a), July 27, 1995, 109 Stat. 230; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 659 [title II, § 206(b)(2)]], Sept. 30, 1996, 110 Stat. 3009–314, 3009–372, 3009–378; Pub. L. 105–277, div. A, § 101(b) [title IV, § 407(a), (c)(1)], div. G, subdiv. B, title XXIII, § 2316(a), (c)(1), Oct. 21, 1998, 112 Stat. 2681–50, 2681–101, 2681–102, 2681–828.)

REFERENCES IN TEXT

Title II of Public Law 99–399, referred to in subsecs. (a)(2) and (k)(1), is title II of Pub. L. 99–399, Aug. 27, 1986, 100 Stat. 858, as amended, which is classified generally to subchapter II (§ 4821 et seq.) of chapter 58 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of Title 22 and Tables.

Sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980, referred to in subsec. (k)(2)(B), are

classified to sections 4009(b)(1), 4045, 4046, and 4071e, respectively, of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–277, § 101(b) [title IV, § 407(c)(1)] and § 2316(c)(1), amended subsec. (a)(2) identically, substituting ''Public Law 99–399, subject to subsection (k))'' for ''Public Law 99–399)'' in introductory provisions.

Subsec. (k). Pub. L. 105–277, § 101(b) [title IV, § 407(a)] and § 2316(a), amended section identically, adding subsec. (k).

1996—Subsec. (h)(2)(A). Pub. L. 104–208 struck out ''8431,'' after ''8331(3),''.

1995—Subsec. (a)(2). Pub. L. 104–19, § 901(1)(A), inserted ''who'' before ''is required to'' in introductory provisions.

Subsec. (a)(2)(E)(v). Pub. L. 104–19, § 901(1)(B), inserted ''and'' at end.

Subsec. (i). Pub. L. 104–19, § 902(a), added subsec. (i).

Subsec. (j). Pub. L. 104–19, § 901(2), added subsec. (j).

EFFECTIVE DATE OF 1998 AMENDMENT

For effective date of amendment by Pub. L. 105–277, see section 101(b) [title IV, § 407(d)] and section 2316(d) of Pub. L. 105–277, set out as a note under section 5542 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(f) [title VI, § 659 [title II, § 207]] of Pub. L. 104–208 provided that: ''This title [title II (§§ 201–207) of section 659 of section 101(f) of Pub. L. 104–208, amending this section and sections 8351, 8401, 8433, 8435, and 8440a to 8440c of this title, repealing section 8431 of this title, enacting provisions set out as notes under sections 8401 and 8433 of this title, and amending provisions set out as a note under section 5343 of this title] shall take effect on the date of the enactment of this Act [Sept. 30, 1996] and withdrawals and elections as provided under the amendments made by this title shall be made at the earliest practicable date as determined by the Executive Director in regulations.''

EFFECTIVE DATE OF 1995 AMENDMENT

Section 902(b) of Pub. L. 104–19 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall take effect on the first day of the first applicable pay period which begins on or after the 30th day following the date of enactment of this Act [July 27, 1995].''

EFFECTIVE DATE

Section 633(e) of Pub. L. 103–329 provided that: ''The amendments made by this section [enacting this section and amending sections 5542 and 5547 of this title and section 213 of Title 29, Labor] shall take effect on the first day of the first applicable pay period which begins on or after the later of October 1, 1994, or the 30th day following the date of enactment of this Act [Sept. 30, 1994], except that:

''(1) Criminal investigators, employed in Offices of Inspectors General, who are not receiving administratively uncontrollable overtime compensation or who are receiving such premium pay at a rate less than 25 percent prior to the date of enactment of this Act, may implement availability pay at any time prior to September 30, 1995, after which date availability pay as authorized under this section shall be provided to such criminal investigators.

''(2) Criminal investigators, employed by Offices of Inspectors General, who are receiving administratively uncontrollable overtime at a rate less than 25 percent, shall continue to receive this compensation at the same rate or higher until availability pay compensation is provided, which shall be no later than the last pay period ending on or before September 30, 1995.''

IMPLEMENTATION

Pub. L. 105–277, div. A, § 101(b) [title IV, § 407(b)], div. G, subdiv. B, title XXIII, § 2316(b), Oct. 21, 1998, 112 Stat. 2681–50, 2681–102, 2681–828, provided that: ''Not later than the date on which the amendments made by this section [amending this section and section 5542 of this title] take effect [see Effective Date of 1998 Amendment note set out above], each special agent of the Diplomatic Security Service who satisfies the requirements of subsection (k)(1) of section 5545a of title 5, United States Code, as amended by this section, and the appropriate supervisory officer, to be designated by the Secretary of State, shall make an initial certification to the Secretary of State that the special agent is expected to meet the requirements of subsection (d) of such section 5545a. The Secretary of State may prescribe procedures necessary to administer this subsection.''

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 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.

CERTIFICATION OF CRIMINAL INVESTIGATORS

Section 633(f) of Pub. L. 103–329 provided that: ''Not later than the effective date of this section [see Effective Date note above], each criminal investigator under section 5545a of title 5, United States Code, as added by this section, and the appropriate supervisory officer, to be designated by the head of the agency, shall make an initial certification to the head of the agency that the criminal investigator is expected to meet the requirements of subsection (d) of such section 5545a. The head of a law enforcement agency may prescribe procedures necessary to administer this paragraph.''

§ 5545b. Pay for firefighters

(a) This section applies to an employee whose position is classified in the firefighter occupation in conformance with the GS–081 standard published by the Office of Personnel Management, and whose normal work schedule, as in effect throughout the year, consists of regular tours of duty which average at least 106 hours per biweekly pay period.

(b)(1) If the regular tour of duty of a firefighter subject to this section generally consists of 24-hour shifts, rather than a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

(A) paragraph (1) of such section shall be deemed to require that the annual rate be divided by 2756 to derive the hourly rate; and

(B) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on the hourly rate under subparagraph (A);

(2) For the purpose of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(A)) for all

hours in such firefighter's regular tour of duty (including overtime hours).

(c)(1) If the regular tour of duty of a firefighter subject to this section includes a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

(A) the provisions of such section shall apply to the hours within the basic 40-hour workweek;

(B) for hours outside the basic 40-hour workweek, such section shall be deemed to require that the hourly rate be derived by dividing the annual rate by 2756; and

(C) the computation of such firefighter's daily, weekly, or biweekly rate shall be based on subparagraphs (A) and (B), as each applies to the hours involved.

(2) For purposes of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include—

(A) an amount computed under paragraph (1)(A) for the hours within the basic 40-hour workweek; and

(B) an amount equal to the firefighter's basic hourly rate (as computed under paragraph (1)(B)) for all hours outside the basic 40-hour workweek that are within such firefighter's regular tour of duty (including overtime hours).

(d)(1) A firefighter who is subject to this section shall receive overtime pay in accordance with section 5542, but shall not receive premium pay provided by other provisions of this subchapter.

(2) For the purpose of applying section 7(k) of the Fair Labor Standards Act of 1938 to a firefighter who is subject to this section, no violation referred to in such section 7(k) shall be deemed to have occurred if the requirements of section 5542(a) are met, applying section 5542(a) as provided in subsection (f) of that section: *Provided*, That the overtime hourly rate of pay for such firefighter shall in all cases be an amount equal to one and one-half times the firefighter's hourly rate of basic pay under subsection (b)(1)(A) or (c)(1)(B) of this section, as applicable.

(3) The Office of Personnel Management may prescribe regulations, with respect to firefighters subject to this section, that would permit an agency to reduce or eliminate the variation in the amount of firefighters' biweekly pay caused by work scheduling cycles that result in varying hours in the regular tours of duty from pay period to pay period. Under such regulations, the pay that a firefighter would otherwise receive for regular tours of duty over the work scheduling cycle shall, to the extent practicable, remain unaffected.

(4) Notwithstanding section 8114(e)(1), overtime pay for a firefighter subject to this section for hours in a regular tour of duty shall be included in any computation of pay under section 8114.

(Added Pub. L. 105–277, div. A, § 101(h) [title VI, § 628(a)(2)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–519; amended Pub. L. 106–554, § 1(a)(3) [title VI, § 641(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–169.)

REFERENCES IN TEXT

Section 7(k) of the Fair Labor Standards Act of 1938, referred to in subsec. (d)(2), is classified to section 207(k) of Title 29, Labor.

AMENDMENTS

2000—Subsec. (d)(4). Pub. L. 106–554 added par. (4).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, § 1(a)(3) [title VI, § 641(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–169, provided that: ''The amendment in subsection (a) [amending this section] shall be effective as if it had been enacted as part of the Federal Firefighters Overtime Pay Reform Act of 1998 [Pub. L. 105–277, div A, § 101(h) [title VI, § 628]] (112 Stat. 2681–519).''

EFFECTIVE DATE

Section effective on first day of first applicable pay period which begins on or after Oct. 1, 1998, see section 101(h) [title VI, § 628(e)] of Pub. L. 105–277, set out as an Effective Date of 1998 Amendment note under section 4109 of this title.

REGULATIONS

Pub. L. 105–277, div. A, § 101(h) [title VI, § 628(f)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–521, provided that: ''Under regulations prescribed by the Office of Personnel Management, a firefighter subject to section 5545b of title 5, United States Code, as added by this section, whose regular tours of duty average 60 hours or less per workweek and do not include a basic 40-hour workweek, shall, upon implementation of this section, be granted an increase in basic pay equal to 2 step-increases of the applicable General Schedule grade, and such increase shall not be an equivalent increase in pay. If such increase results in a change to a longer waiting period for the firefighter's next step increase, the firefighter shall be credited with an additional year of service for the purpose of such waiting period. If such increase results in a rate of basic pay which is above the maximum rate of the applicable grade, such resulting pay rate shall be treated as a retained rate of basic pay in accordance with section 5363 of title 5, United States Code.''

ELIGIBILITY FOR PAY INCREASE

Pub. L. 106–31, title III, § 3032, May 21, 1999, 113 Stat. 104, provided that:

''(a) The treatment provided to firefighters under section 628(f) of the Treasury and General Government Appropriations Act, 1999 (as included in section 101(h) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)) [set out as a note above] shall be provided to any firefighter who—

''(1) on the effective date of section 5545b of title 5, United States Code [see Effective Date note above]—

''(A) was subject to such section; and

''(B) had a regular tour of duty that averaged more than 60 hours per week; and

''(2) before December 31, 1999, is involuntarily moved without a break in service from the regular tour of duty under paragraph (1) to a regular tour of duty that—

''(A) averages 60 hours or less per week; and

''(B) does not include a basic 40-hour workweek.

''(b) Subsection (a) shall apply to firefighters described under that subsection as of the effective date of section 5545b of title 5, United States Code.

''(c) The Office of Personnel Management may prescribe regulations necessary to implement this section.''

NO REDUCTION IN REGULAR PAY

Pub. L. 105–277, div. A, § 101(h) [title VI, § 628(g)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–521, provided that:

''Under regulations prescribed by the Office of Personnel Management, the regular pay (over the established work scheduling cycle) of a firefighter subject to section 5545b of title 5, United States Code, as added by this section, shall not be reduced as a result of the implementation of this section.''

§ 5546. Pay for Sunday and holiday work

(a) An employee who performs work during a regularly scheduled 8-hour period of service which is not overtime work as defined by section 5542(a) of this title a part of which is performed on Sunday is entitled to pay for the entire period of service at the rate of his basic pay, plus premium pay at a rate equal to 25 percent of his rate of basic pay. For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.

(b) An employee who performs work on a holiday designated by Federal statute, Executive order, or with respect to an employee of the government of the District of Columbia, by order of the District of Columbia Council, is entitled to pay at the rate of his basic pay, plus premium pay at a rate equal to the rate of his basic pay, for that holiday work which is not—

(1) in excess of 8 hours; or

(2) overtime work as defined by section 5542(a) of this title.

(c) An employee who is required to perform any work on a designated holiday is entitled to pay for at least 2 hours of holiday work.

(d) An employee who performs overtime work as defined by section 5542(a) of this title on a Sunday or a designated holiday is entitled to pay for that overtime work in accordance with section 5542(a) of this title.

(e) Premium pay under this section is in addition to premium pay which may be due for the same work under section 5545(a) and (b) of this title, providing premium pay for nightwork.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 90–83, § 1(29), Sept. 11, 1967, 81 Stat. 201; Pub. L. 90–623, § 1(13), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 105–277, div. G, subdiv. B, title XXIII, § 2317(2), Oct. 21, 1998, 112 Stat. 2681–829.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 922.	June 30, 1945, ch. 212, § 302, 59 Stat. 298. May 24, 1946, ch. 270, § 11, 60 Stat. 218. Sept. 1, 1954, ch. 1208, § 207, 68 Stat. 1110. July 18, 1958, Pub. L. 85–533, § 1, 72 Stat. 377.

In subsections (a) and (b), the word ''officer'' is omitted as included in ''employee''.

In subsections (b) and (c), the word ''designated'' is substituted for ''such a'' and ''such'' in former section 922(b) and (c) to identify the holiday as one designated by statute, Executive order, or the Board of Commissioners of the District of Columbia.

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

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5546(a)	5 App.: 921a.	July 18, 1966, Pub. L. 89–504, § 405(b)(1), (c), 80 Stat. 297.

In subsection (a), the words ''An employee who performs work . . . is entitled to pay . . . at the rate of his basic pay'' are coextensive with and substituted for ''Any . . . service . . . performed . . . shall be compensated . . . at the rate of basic compensation of the officer or employee performing such work.'' The words ''section 5542(a) of this title'' are substituted for ''section 201 of this Act'' to reflect the codification of that section in title 5, United States Code. The words ''between midnight Saturday and midnight Sunday'' are coextensive with and substituted for ''within the period commencing at midnight Saturday and ending at midnight Sunday''.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 inserted at end ''For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.''

1968—Subsec. (b). Pub. L. 90–623, § 1(13)(A), substituted ''District of Columbia Council'' for ''Board of Commissioners of the District of Columbia''.

Subsec. (d). Pub. L. 90–623, § 1(13)(B), substituted ''5542(a)'' for ''5442(a)''.

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, but amendment of subsec. (d) of this section by section 1(13)(B) of Pub. L. 90–623 effective as of Sept. 6, 1966, for all purposes, 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.

CONDITION OF PERFORMANCE

Pub. L. 105–277, div. A, § 101(h) [title VI, § 624], Oct. 21, 1998, 112 Stat. 2681–480, 2681–518, provided that: ''Notwithstanding any other provision of law, no part of any funds provided by this Act or any other Act beginning in fiscal year 1999 and thereafter shall be available for paying Sunday premium pay to any employee unless such employee actually performed work during the time corresponding to such premium pay.''

Similar provisions were contained in the following prior appropriations act:

Pub. L. 105–61, title VI, § 636, Oct. 10, 1997, 111 Stat. 1316.

§ 5546a. Differential pay for certain employees of the Federal Aviation Administration and the Department of Defense

(a) The Administrator of the Federal Aviation Administration (hereafter in this section referred to as the ''Administrator'') and the Secretary of Defense (hereafter in this section referred to as the ''Secretary'') may pay premium

pay at the rate of 5 per centum of the applicable rate of basic pay to—

(1) any employee of the Federal Aviation Administration or the Department of Defense who is—

(A) occupying a position in the air traffic controller series classified not lower than GS–9 and located in an air traffic control center or terminal or in a flight service station;

(B) assigned to a position classified not lower than GS–09 or WG–10 located in an airway facilities sector; or

(C) assigned to a flight inspection crewmember position classified not lower than GS–11 located in a flight inspection field office,

the duties of whose position are determined by the Administrator or the Secretary to be directly involved in or responsible for the operation and maintenance of the air traffic control system; and

(2) any employee of the Federal Aviation Administration or the Department of Defense who is assigned to a flight test pilot position classified not lower than GS-12 located in a region or center, the duties of whose position are determined by the Administrator or the Secretary to be unusually taxing, physically or mentally, and to be critical to the advancement of aviation safety; and

(3) any employee of the Federal Aviation Administration who occupies a position at the Federal Aviation Administration Academy, Oklahoma City, Oklahoma, the duties of which are determined by the Administrator to require the individual to be actively engaged in or directly responsible for training employees to perform the duties of a position described in subparagraph (a); (b); or (c) or paragraph (1) of this subsection, and who, immediately prior to assuming such position at such Academy, occupied a position referred to in subparagraph (a), (b), or (c) of paragraph (1) of this subsection.

(b) The premium pay payable under any subsection of this section is in addition to basic pay and to premium pay payable under any other subsection of this section and any other provision of this subchapter.

(c)(1) The Administrator or the Secretary may pay premium pay to any employee of the Federal Aviation Administration or the Department of Defense who—

(A) is an air traffic controller located in an air traffic control center or terminal;

(B) is not required as a condition of employment to be certified by the Administrator or the Secretary as proficient and medically qualified to perform duties including the separation and control of air traffic; and

(C) is so certified.

(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 1.6 per centum of the applicable rate of basic pay for so long as such employee is so certified.

(d)(1) The Administrator or the Secretary may pay premium pay to any air traffic controller of the Federal Aviation Administration or the Department of Defense who is assigned by the Administrator or the Secretary to provide on-the-job training to another air traffic controller while such other air traffic controller is directly involved in the separation and control of live air traffic.

(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 10 per centum of the applicable hourly rate of basic pay times the number of hours and portion of an hour during which the air traffic controller of the Federal Aviation Administration or the Department of Defense provides on-the-job training.

(e)(1) The Administrator or the Secretary may pay premium pay to any air traffic controller or flight service station specialist of the Federal Aviation Administration or the Department of Defense who, while working a regularly scheduled eight-hour period of service, is required by his supervisor to work during the fourth through sixth hour of such period without a break of thirty minutes for a meal.

(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 50 per centum of one-half of the applicable hourly rate of basic pay.

(f)(1) The Administrator or the Secretary shall prescribe standards for determining which air traffic controllers and other employees of the Federal Aviation Administration or the Department of Defense are to be paid premium pay under this section.

(2) The Administrator and the Secretary may prescribe such rules as he determines are necessary to carry out the provisions of this section.

(Added Pub. L. 97–276, §151(c)(1), (d), Oct. 2, 1982, 96 Stat. 1200, 1201; amended Pub. L. 97–377, title I, §145(a), formerly §145, Dec. 21, 1982, 96 Stat. 1917, renumbered Pub. L. 98–78, title III, §320(1), Aug. 15, 1983, 97 Stat. 473; Pub. L. 98–525, title XV, §1537(c)(1)–(6)(A), Oct. 19, 1984, 98 Stat. 2635, 2636.)

AMENDMENTS

1984—Pub. L. 98–525, §1537(c)(6)(A), inserted ''and the Department of Defense'' in section catchline.

Subsec. (a). Pub. L. 98–525, §1537(c)(1)(A), inserted ''and the Secretary of Defense (hereafter in this section referred to as the 'Secretary')'' in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 98–525, §1537(c)(1)(B), inserted ''or the Department of Defense'' in provisions preceding subpar. (A) and ''or the Secretary'' in provisions following subpar. (C).

Subsec. (a)(2). Pub. L. 98–525, §1537(c)(1)(C), inserted ''or the Department of Defense'' and ''or the Secretary''.

Subsecs. (c)(1), (d), (e)(1), (f)(1). Pub. L. 98–525, §1537(c)(2)–(5)(A), inserted ''or the Secretary'' after ''Administrator'' wherever appearing, and ''or the Department of Defense'' after ''Administration'' wherever appearing.

Subsec. (f)(2). Pub. L. 98–525, §1537(c)(5)(B), inserted ''and the Secretary''.

1982—Subsec. (a)(3). Pub. L. 97–377 added par. (3).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective Oct. 1, 1984, see section 1537(f) of Pub. L. 98–525, set out as a note under section 4109 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 145(b) of Pub. L. 97–377, as added by Pub. L. 98–78, title III, §320(2), Aug. 15, 1983, 97 Stat. 473, pro-

vided that: ''The amendment made by subsection (a) of this section [amending this section] shall be effective as of 5 o'clock ante meridian eastern daylight time, August 3, 1981.''

EFFECTIVE DATE

Section 151(h)(1), (2) of Pub. L. 97–276 provided that:

''(1) The amendments made by subsections 152 [151] (b), (c), (e), and (g) of this joint resolution [enacting subsecs. (a) and (b) of this section and amending sections 5532, 5547, and 8344 of this title] shall take effect at 5 o'clock ante meridian eastern daylight time, August 3, 1981.

''(2) The amendments made by subsection 152 [151] (a) and subsection 152 [151] (d) of this joint resolution [enacting subsecs. (c)–(f) of this section and amending section 4109 of this title] shall take effect on the first day of the first applicable pay period beginning after the date of the enactment of this joint resolution [Oct. 2, 1982].''

§ 5547. Limitation on premium pay

(a) An employee may be paid premium pay under sections 5542, 5545(a), (b), and (c), 5545a, and 5546(a) and (b) only to the extent that the payment does not cause the aggregate of basic pay and such premium pay for any pay period for such employee to exceed the greater of—

(1) the maximum rate of basic pay payable for GS–15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

(2) the rate payable for level V of the Executive Schedule.

(b)(1) Subject to regulations prescribed by the Office of Personnel Management, subsection (a) shall not apply to an employee who is paid premium pay by reason of work in connection with an emergency (including a wildfire emergency) that involves a direct threat to life or property, including work performed in the aftermath of such an emergency.

(2) Notwithstanding paragraph (1), no employee referred to in such paragraph may be paid premium pay under the provisions of law cited in subsection (a) if, or to the extent that, the aggregate of the basic pay and premium pay under those provisions for such employee would, in any calendar year, exceed the greater of—

(A) the maximum rate of basic pay payable for GS–15 in effect at the end of such calendar year (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

(B) the rate payable for level V of the Executive Schedule in effect at the end of such calendar year.

(3) Subject to regulations prescribed by the Office of Personnel Management, the head of an agency may determine that subsection (a) shall not apply to an employee who is paid premium pay to perform work that is critical to the mission of the agency. Such employees may be paid premium pay under the provisions of law cited in subsection (a) if, or to the extent that, the aggregate of the basic pay and premium pay under those provisions for such employee would not, in any calendar year, exceed the greater of—

(A) the maximum rate of basic pay payable for GS–15 in effect at the end of such calendar year (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

(B) the rate payable for level V of the Executive Schedule in effect at the end of such calendar year.

(c) The Office of Personnel Management shall prescribe regulations governing the methods of applying subsection (b)(2) and (b)(3) to employees who receive premium pay under section 5545(c) or 5545a, or to firefighters covered by section 5545b who receive overtime pay for hours in their regular tour of duty, and the method of payment to such employees. Such regulations may limit the payment of such premium pay on a biweekly basis.

(d) This section shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 90–83, § 1(31), Sept. 11, 1967, 81 Stat. 201; Pub. L. 97–276, § 151(e), Oct. 2, 1982, 96 Stat. 1201; Pub. L. 98–525, title XV, § 1537(d), Oct. 19, 1984, 98 Stat. 2636; Pub. L. 100–523, § 2, Oct. 24, 1988, 102 Stat. 2605; Pub. L. 101–509, title V, § 529 [title II, § 204, title IV, § 410(b)], Nov. 5, 1990, 104 Stat. 1427, 1456, 1469; Pub. L. 102–378, § 2(43), Oct. 2, 1992, 106 Stat. 1352; Pub. L. 103–329, title VI, § 633(b)(2), Sept. 30, 1994, 108 Stat. 2427; Pub. L. 107–107, div. A, title XI, § 1114(a), Dec. 28, 2001, 115 Stat. 1239.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 943.	June 30, 1945, ch. 212, § 603, 59 Stat. 302. May 24, 1946, ch. 270, § 7(a), 60 Stat. 218. July 3, 1948, ch. 830, § 303(a), 62 Stat. 1268. Sept. 1, 1954, ch. 1208, § 209, 68 Stat. 1112.

Former section 943(a), (b) is combined and restated for clarity and conciseness. The word ''officer'' is omitted as included in ''employee''. The word ''scheduled'' is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87–793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. Reference to the ''Classification Act of 1949, as amended'' is 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.

1967 ACT

In the codification of 5 U.S.C. 5547, the words ''premium pay under this subchapter'' were substituted for ''premium compensation provided by this Act'' appearing in the source statute—section 603 of the Federal Employees Pay Act of 1945, as amended (former 5 U.S.C. 943). This amendment of 5 U.S.C. 5547 is made for clarity and precision of reference and in recognition that the source statutes for certain sections of subchapter V of chapter 55 of title 5 include statutes that were not a part of the Federal Employees Pay Act of 1949. Specifically, 5 U.S.C. 5544(a) is based in part on section 23 (2d proviso) of the act of March 28, 1934, as amended by 76

Stat. 360; and 5 U.S.C. 5545(d) is based on section 804 of the Classification Act of 1949, as added by Public Law 89–512, 80 Stat. 318. Also, 5 U.S.C. 5541(2)(xi) in effect excludes employees subject to 5 U.S.C. 5544 from the operation of 5 U.S.C. 5547.

REFERENCES IN TEXT

GS–15, referred to in subsecs. (a)(1) and (b)(2)(A), (3)(A), is contained in the General Schedule which is set out under section 5332 of this title.

Level V of the Executive Schedule, referred to in subsecs. (a)(2) and (b)(2)(B), (3)(B), is set out in section 5316 of this title.

AMENDMENTS

2001—Pub. L. 107–107 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows:

''(a) An employee may be paid premium pay under sections 5542, 5545(a), (b), and (c), 5545a, and 5546(a) and (b) of this title only to the extent that the payment does not cause his aggregate rate of pay for any pay period to exceed the maximum rate for GS–15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law). The first sentence of this subsection shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a of this title.

''(b)(1) Subject to regulations prescribed by the Office of Personnel Management, the first sentence of subsection (a) shall not apply to an employee who is paid premium pay by reason of work in connection with an emergency which involves a direct threat to life or property, including a forest wildfire emergency.

''(2) Notwithstanding paragraph (1), no employee referred to in such paragraph may be paid premium pay under the provisions of law cited in the first sentence of subsection (a) if, or to the extent that, the aggregate of such employee's basic pay and premium pay under those provisions would, in any calendar year, exceed the maximum rate payable for GS–15 in effect at the end of such calendar year.

''(c)(1) Subsections (a) and (b) shall not apply to a law enforcement officer.

''(2) A law enforcement officer may be paid premium pay under the provisions of law cited in the first sentence of subsection (a) only to the extent that the payment does not cause the officer's aggregate rate of pay for any pay period to exceed the lesser of—

''(A) 150 percent of the minimum rate payable for GS–15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

''(B) the rate payable for level V of the Executive Schedule.''

1994—Subsec. (a). Pub. L. 103–329 inserted ''5545a,'' after ''5545(a), (b), and (c),''.

1992—Subsec. (c)(3). Pub. L. 102–378 struck out par. (3) which read as follows: ''For the purposes of this subsection, 'law enforcement officer' means any law enforcement officer within the meaning of section 8331(20) or section 8401(17).''

1990—Subsec. (a). Pub. L. 101–509, § 529 [title II, § 204(1)], inserted ''(including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law)'' after ''GS–15''.

Subsec. (b). Pub. L. 101–509, § 529 [title II, § 204(2)], amended subsec. (b) generally, substituting present provisions for former provisions consisting of pars. (1) to (3) that related to pay of forest firefighters working on forest wildfire emergencies.

Subsec. (c). Pub. L. 101–509, § 529 [title IV, § 410(b)], added subsec. (c).

1988—Pub. L. 100–523 amended section generally, designating existing provisions as subsec. (a) and adding subsec. (b).

1984—Pub. L. 98–525 inserted ''or the Department of Defense''.

1982—Pub. L. 97–276 inserted provision directing that first sentence of this section not apply to any employee of Federal Aviation Administration who is paid premium pay under section 5546a of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title XI, § 1114(c), Dec. 28, 2001, 115 Stat. 1240, provided that: ''The amendments made by subsections (a) and (b) [amending this section and provisions set out as a note under this section] shall take effect on the first day of the first pay period beginning on or after the date that is 120 days following the date of enactment of this Act [Dec. 28, 2001].''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–329 effective first day of first applicable pay period beginning on or after 30th day following Sept. 30, 1994, with exceptions relating to criminal investigators employed in Offices of Inspectors General, see section 633(e) of Pub. L. 103–329, set out as an Effective Date note under section 5545a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–378 effective as of first day of first applicable pay period beginning on or after Oct. 2, 1992, see section 9(b)(9) of Pub. L. 102–378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 529 [title II, § 204] of 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 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective Oct. 1, 1984, see section 1537(f) of Pub. L. 98–525, set out as a note under section 4109 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–276 effective at 5 o'clock ante meridian eastern daylight time, Aug. 3, 1981, see section 151(h)(1) of Pub. L. 97–276, set out as an Effective Date note under section 5546a of this title.

SHORT TITLE OF 1988 AMENDMENT

Section 1 of Pub. L. 100–523 provided: ''That this Act [amending this section] may be cited as the 'Forest Wildfire Emergency Pay Equity Act of 1988'.''

PREMIUM PAY FOR PROTECTIVE SERVICES OF UNITED STATES SECRET SERVICE

Pub. L. 106–554, § 1(a)(3) [title I, § 118], Dec. 21, 2000, 114 Stat. 2763, 2763A–134, as amended by Pub. L. 107–107, div. A, title XI, § 1114(b), Dec. 28, 2001, 115 Stat. 1240, provided that: ''Hereafter, funds made available by this or any other Act may be used to pay premium pay for protective services authorized by section 3056(a) of title 18, United States Code, without regard to the restrictions contained in section 5547 of title 5, United States Code, except that such premium pay shall not be payable to an employee to the extent that the aggregate of the employee's basic and premium pay for the year would otherwise exceed the annual equivalent of that limitation. The term premium pay refers to the provisions of law cited in the first sentence of section 5547(a) of title 5, United States Code. Payment of additional premium pay payable under this section may be made in a lump sum on the last payday of the calendar year.''

Similar provisions were contained in Pub. L. 106–58, title I, § 118, Sept. 29, 1999, 113 Stat. 441.

[For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.]

§ 5548. Regulations

(a) The Office of Personnel Management may prescribe regulations, subject to the approval of the President, necessary for the administration of this subchapter, except section 5545(d), insofar as this subchapter affects employees in or under an Executive agency.

(b) The Office shall prescribe regulations necessary for the administration of section 5545(d).

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 90–83, § 1(32), Sept. 11, 1967, 81 Stat. 201; Pub. L. 92–392, § 12, Aug. 19, 1972, 86 Stat. 575; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 102–378, § 2(44)(C), Oct. 2, 1992, 106 Stat. 1352.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 945.	June 30, 1945, ch. 212, § 605, 59 Stat. 304.

The words ''an Executive agency'' are substituted for ''the executive branch of the Government'' to conform to the definition in section 105. Applicability of this section to employees of the General Accounting Office is based on former section 933a.

The remainder of the authority is covered by sections 5504 and 6101.

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

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5548(b)	5 App.: 1072 (as applicable to 5 App.: 1134.)	Oct. 28, 1949, ch. 782, § 1101 (as applicable to § 804, added July 19, 1966, Pub. L. 89–512, § 1, 80 Stat. 318), 63 Stat. 971.
	5 App.: 1134(4) (6th through 9th words).	July 19, 1966, Pub. L. 89–512, § 1 ''Sec. 804(4) (6th through 9th words)'', 80 Stat. 318.

This section consolidates into 5 U.S.C. 5548(b) general regulatory authority granted to the Civil Service Commission by section 1101 of the Classification Act of 1949 (as applicable to sec. 804 of that act, added by Public Law 89–512) and the specific requirement in section 804(4) of that act that the Commission prescribe regulations.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–378 substituted ''section 5545(d)'' for ''sections 5545(d) and 5550 of this title''.

1978—Subsecs. (a), (b). Pub. L. 95–454 substituted ''Office of Personnel Management'' for ''Civil Service Commission'' and ''Office'' for ''Commission''.

1972—Subsec. (a). Pub. L. 92–392, § 12(a), struck out reference to section 5544 of this title.

Subsec. (b). Pub. L. 92–392, § 12(b), inserted reference to section 5550 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.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92–392, set out as an Effective Date note under section 5341 of this title.

DELEGATION OF FUNCTIONS

Function vested in Office of Personnel Management under this section to be performed without approval of President, see section 1(1) of Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

§ 5549. Effect on other statutes

This subchapter does not prevent payment for overtime services or for Sunday or holiday work under any of the following statutes—

(1) section 10703 of the Farm Security and Rural Investment Act of 2002;

(2) sections 1353a and 1353b of title 8;

(3) sections 261,[1] 267, 1450, 1451, 1451a,[1] and 1452 of title 19;

(4) sections 2111 and 2112 of title 46; and

(5) section 154(f)(3) of title 47.

However, an employee may not receive premium pay under this subchapter for the same services for which he is paid under one of these statutes.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 98–89, § 3(a), Aug. 26, 1983, 97 Stat. 599; Pub. L. 107–171, title X, § 10703(c)(4), May 13, 2002, 116 Stat. 518.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 941.	June 30, 1945, ch. 212, § 601, 59 Stat. 302.

In paragraph (2), the words ''sections 1353a and 1353b of title 8'' are substituted for ''sections 342c and 342d of this title'' to reflect the scheduled transfer of those sections to title 8.

In paragraph (5), the words ''section 154(f)(3) of title 47'' are substituted for ''section 154(f)(2) of title 47'' on authority of the Act of July 16, 1952, ch. 879, § 3(b), 66 Stat. 711, which redesignated subsection (f)(2) as (f)(3).

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

Section 10703 of the Farm Security and Rural Investment Act of 2002, referred to in par. (1), is section 10703 of Pub. L. 107–171, which enacted section 2219a of Title 7, Agriculture, amended this section and sections 468 and 695 of Title 21, Food and Drugs, and repealed section 394 of Title 7.

Section 261 of title 19, referred to in par. (3), was omitted from the Code in the general revision of section 5 of act Feb. 13, 1911, ch. 46, by Pub. L. 103–66, title XIII, § 13811(a), Aug. 10, 1993, 107 Stat. 668.

Section 1451a of title 19, referred to in par. (3), was repealed by Pub. L. 103–66, title XIII, § 13811(b)(1), Aug. 10, 1993, 107 Stat. 670.

[1] See References in Text note below.

AMENDMENTS

2002—Par. (1). Pub. L. 107–171 added par. (1) and struck out former par. (1) which read as follows: ''section 394 of title 7;''.

1983—Par. (4). Pub. L. 98–89 substituted ''sections 2111 and 2112 of title 46'' for ''section 382b of title 46''.

[§ 5550. Repealed. Pub. L. 102–378, § 2(44)(A), Oct. 2, 1992, 106 Stat. 1352]

Section, added Pub. L. 92–392, § 10(a), Aug. 19, 1972, 86 Stat. 574, related to pay for Sunday and overtime work for employees of nonappropriated fund instrumentalities.

§ 5550a. Compensatory time off for religious observances

(a) Not later than 30 days after the date of the enactment of this section, the Office of Personnel Management shall prescribe regulations providing for work schedules under which an employee whose personal religious beliefs require the abstention from work during certain periods of time, may elect to engage in overtime work for time lost for meeting those religious requirements. Any employee who so elects such overtime work shall be granted equal compensatory time off from his scheduled tour of duty (in lieu of overtime pay) for such religious reasons, notwithstanding any other provision of law.

(b) In the case of any agency described in subparagraphs (C) through (G) of section 5541(1) of this title, the head of such agency (in lieu of the Office) shall prescribe the regulations referred to in subsection (a) of this section.

(c) Regulations under this section may provide for such exceptions as may be necessary to efficiently carry out the mission of the agency or agencies involved.

(Added Pub. L. 95–390, title IV, § 401(a), Sept. 29, 1978, 92 Stat. 762; amended Pub. L. 96–54, § 2(a)(14), (15), Aug. 14, 1979, 93 Stat. 382.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 95–390, which was approved Sept. 29, 1978.

AMENDMENTS

1979—Subsecs. (a), (b). Pub. L. 96–54 substituted ''Office of Personnel Management'' for ''Civil Service Commission'' and ''Office'' for ''Commission''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

§ 5550b. Compensatory time off for travel

(a) Notwithstanding any provision of section 5542(b)(2) or 5544(a), each hour spent by an employee in travel status away from the official duty station of the employee, that is not otherwise compensable, shall be treated as an hour of work or employment for purposes of calculating compensatory time off.

(b) An employee who has any hours treated as hours of work or employment for purposes of calculating compensatory time under subsection (a), shall not be entitled to payment for any such hours that are unused as compensatory time.

(Added Pub. L. 108–411, title II, § 203(a), Oct. 30, 2004, 118 Stat. 2313; amended Pub. L. 110–181, div. A, title XI, § 1111(a), Jan. 28, 2008, 122 Stat. 360.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181 substituted ''any provision of section 5542(b)(2) or 5544(a),'' for ''section 5542(b)(2),''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective on the earlier of the effective date of any regulations prescribed to carry out amendments by section 1111 of Pub. L. 110–181 or the 90th day after Jan. 28, 2008, see section 1111(c) of Pub. L. 110–181, set out as a note under section 5541 of this title.

EFFECTIVE DATE

Pub. L. 108–411, title II, § 203(c), Oct. 30, 2004, 118 Stat. 2313, provided that: ''The amendments made by this section [enacting this section] shall take effect on the earlier of—

''(1) the effective date of any regulations prescribed to carry out such amendments; or

''(2) the 90th day after the date of the enactment of this Act [Oct. 30, 2004].''

COMPENSATORY TIME OFF FOR TRAVEL FOR DEPARTMENT OF JUSTICE ATTORNEYS

Pub. L. 109–425, § 1, Dec. 20, 2006, 120 Stat. 2910, provided that:

''(a) IN GENERAL.—Attorneys employed by the Department of Justice (including assistant United States attorneys) shall be eligible for compensatory time off for travel under section 5550b of title 5, United States Code, without regard to any provision of section 115 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(1) of Public Law 106–113 and reenacted by section 111 of the Department of Justice Appropriations Act, 2001 (as enacted into law by appendix B of Public Law 106–553) [set out as a note under section 5541 of this title]).

''(b) APPLICABILITY.—Subsection (a) shall apply with respect to time spent in travel status on or after the date of the enactment of this Act [Dec. 20, 2006].''

SUBCHAPTER VI—PAYMENT FOR ACCUMULATED AND ACCRUED LEAVE

§ 5551. Lump-sum payment for accumulated and accrued leave on separation

(a) An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, who is separated from the service, is transferred to a position described under section 6301(2)(B)(xiii) of this title, or elects to receive a lump-sum payment for leave under section 5552 of this title, is entitled to receive a lump-sum payment for accumulated and current accrued annual or vacation leave to which he is entitled by statute. The lump-sum payment shall equal the pay (excluding any differential under section 5925 and any allowance under section 5928) the employee or individual would have received had he remained in the service until expiration of the period of the annual or vacation leave. The lump-sum payment is considered pay for taxation purposes only. The period of leave used for calculating the lump-sum payment shall not be extended due to any holiday occurring after separation. For the purposes of this subsection, movement to employment described in section 2105(c) shall not be deemed separation from the service in the

case of an employee whose annual leave is transferred under section 6308(b).

(b) The accumulated and current accrued annual leave to which an officer excepted from subchapter I of chapter 63 of this title by section 6301(2)(x)–(xiii) of this title, is entitled immediately before the date he is excepted under that section shall be liquidated by a lump-sum payment in accordance with subsection (a) of this section or subchapter VIII of this chapter, except that the payment is based on the rate of pay which he was receiving immediately before the date on which section 6301(2)(x)–(xiii) of this title became applicable to him.

(c)(1) Annual leave that is restored to an employee of the Department of Defense under section 6304(d) of this title by reason of the operation of paragraph (3) of such section and remains unused upon the transfer of the employee to a position described in paragraph (2) shall be liquidated by payment of a lump-sum for such leave to the employee upon the transfer.

(2) A position referred to in paragraph (1) is a position in a department or agency of the Federal Government outside the Department of Defense or a Department of Defense position that is not located at a Department of Defense installation being closed or realigned as described in section 6304(d)(3) of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 93–181, § 1, Dec. 14, 1973, 87 Stat. 705; Pub. L. 95–519, § 2, Oct. 25, 1978, 92 Stat. 1819; Pub. L. 96–499, title IV, § 402(a), Dec. 5, 1980, 94 Stat. 2605; Pub. L. 101–508, title VII, § 7202(g), Nov. 5, 1990, 104 Stat. 1388–336; Pub. L. 102–138, title I, § 147(b)(1), Oct. 28, 1991, 105 Stat. 669; Pub. L. 104–201, div. A, title XVI, § 1611(a), Sept. 23, 1996, 110 Stat. 2738; Pub. L. 106–518, title III, § 310, Nov. 13, 2000, 114 Stat. 2420.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 61b (1st, 2d, and 6th sentences).	Dec. 21, 1944, ch. 632, § 1 (less 1st proviso, and less so much of last sentence as precedes 2d proviso), 58 Stat. 845. July 2, 1953, ch. 178, § 4(a) (1st and 5th sentences), 67 Stat. 137.
(b)	5 U.S.C. 2061a(a).	July 2, 1953, ch. 178, § 2(a), 67 Stat. 136.

In subsection (a), the words ''An employee as defined by section 2105 of this title'' are coextensive with and substituted for ''civilian officer or employee of the Federal Government''. Reference to ''section 1474 of Appendix to Title 50, is omitted in view of the repeal of that section by the Act of July 24, 1956, ch. 671, § 5(a)(3), 70 Stat. 606. The words ''and shall not be subject to retirement deductions'' are omitted and carried into section 8331(3).

In subsection (b)(2), reference to the limitation imposed by section 5 of the Act of July 2, 1953, ch. 178, 67 Stat. 138, is omitted as obsolete since the limitation was eliminated by the Act of Sept. 2, 1958, Pub. L. 85–914, § 1, 72 Stat. 1761.

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

2000—Subsec. (a). Pub. L. 106–518 substituted '', is transferred to a position described under section 6301(2)(B)(xiii) of this title, or elects'' for ''or elects'' in first sentence.

1996—Subsec. (c). Pub. L. 104–201 added subsec. (c).

1991—Subsec. (a). Pub. L. 102–138 inserted ''(excluding any differential under section 5925 and any allowance under section 5928)'' after ''pay'' in second sentence.

1990—Subsec. (a). Pub. L. 101–508 inserted at end ''For the purposes of this subsection, movement to employment described in section 2105(c) shall not be deemed separation from the service in the case of an employee whose annual leave is transferred under section 6308(b).''

1980—Subsec. (a). Pub. L. 96–499 provided that the period of leave used for calculating the lump-sum payment was not to be extended due to any holiday occurring after separation.

1978—Subsec. (b). Pub. L. 95–519 substituted ''6301(2)(x)–(xiii)'' for ''6301(2)(x)–(xii)'' in two places.

1973—Subsec. (a). Pub. L. 93–181 struck out exception clause that the lump-sum payment may not exceed pay for a period of annual or vacation leave in excess of 30 days or the number of days carried over to his credit at the beginning of the leave year in which entitlement to payment occurs, whichever is greater.

Subsec. (b). Pub. L. 93–181 struck out second exception clause that the payment is made without regard to the limitation in subsec. (a) of this section on the amount of leave compensable.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1611(b) of Pub. L. 104–201 provided that: ''Subsection (c) of section 5551 of title 5, United States Code (as added by subsection (a)), shall apply with respect to transfers described in such subsection (c) that take effect on or after the date of the enactment of this Act [Sept. 23, 1996].''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 147(b)(2) of Pub. L. 102–138 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to service as part of a tour of duty or extension thereof commencing on or after the date of enactment of this Act [Oct. 28, 1991].''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable with respect to any individual who, on or after Jan. 1, 1987, moves from employment in nonappropriated fund instrumentality of Department of Defense or Coast Guard, that is described in section 2105(c) of this title, to employment in Department or Coast Guard, that is not described in section 2105(c), or who moves from employment in Department or Coast Guard, that is not described in section 2105(c), to employment in nonappropriated fund instrumentality of Department or Coast Guard, that is described in section 2105(c), see section 7202(m)(1) of Pub. L. 101–508, set out as a note under section 2105 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 402(b) of Pub. L. 96–499 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 5, 1980] and shall apply to employees separating from the service on or after such date.''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 4 of Pub. L. 95–519 provided that:

''(a) The amendments made by the first section and section 2 of this Act [amending this section and sections 6301, 6302, and 6306 of this title] shall take effect beginning on the first day of the first applicable pay period beginning on or after the date of the enactment of this Act [Oct. 25, 1978].

''(b) The amendment made by section 3 of this Act [amending section 8339 of this title] shall apply only with respect to employees who retire or die on or after the date of the enactment of this Act [Oct. 25, 1978].''

§ 5552. Lump-sum payment for accumulated and accrued leave on entering active duty; election

An employee as defined by section 2105 of this title or an individual employed by a territory or possession of the United States or the government of the District of Columbia who enters on active duty in the armed forces is entitled to—

(1) receive, in addition to his pay and allowances from the armed forces, a lump-sum payment for accumulated and current accrued annual or vacation leave in accordance with section 5551 of this title; or

(2) elect to have the leave remain to his credit until his return from active duty.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 489.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 61a.	Aug. 1, 1941, ch. 348, 55 Stat. 616. Apr. 7, 1942, ch. 220, 56 Stat. 200.

The words ''An employee as defined by section 2105 of this title'' are coextensive with and substituted for ''Employees of the United States Government, . . . (including employees of any corporation created under authority of an Act of Congress which is either wholly controlled or wholly owned by the United States Government, or any corporation, all the stock of which is owned or controlled by the United States Government, or any department, agency, or establishment thereof, whether or not the employees thereof are paid from funds appropriated by Congress)''.

The words ''subsequent to May 1, 1940'' are omitted as obsolete. The words ''active duty in the armed forces'' and ''active duty'' are substituted for ''active military or naval service in the land or naval forces of the United States'' and ''active military or naval service'', respectively, on authority of the National Security Act of 1947, 61 Stat. 495, as amended. The words ''by voluntary enlistment or otherwise'' are omitted as unnecessary.

In paragraph (1), the words ''in accordance with section 5551 of this title'' are added on authority of former section 61b, which is carried into section 5551.

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

§ 5553. Regulations

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

(Added Pub. L. 102–378, § 2(45)(A), Oct. 2, 1992, 106 Stat. 1353.)

SUBCHAPTER VII—PAYMENTS TO MISSING EMPLOYEES

§ 5561. Definitions

For the purpose of this subchapter—

(1) ''agency'' means an Executive agency and a military department;

(2) ''employee'' means an employee in or under an agency who is a citizen or national of the United States or an alien admitted to the United States for permanent residence, but does not include a part-time or intermittent employee or native labor casually hired on an hourly or daily basis. However, such an employee who enters a status listed in paragraph (5)(A)–(E) of this section—

(A) inside the continental United States; or

(B) who is a resident at or in the vicinity of his place of employment in a territory or possession of the United States or in a foreign country and who was not living there solely as a result of his employment;

is an employee for the purpose of this subchapter only on a determination by the head of the agency concerned that this status is the proximate result of employment by the agency;

(3) ''dependent'' means—

(A) a wife;

(B) an unmarried child (including an unmarried dependent stepchild or adopted child) under 21 years of age;

(C) a dependent mother or father;

(D) a dependent designated in official records; and

(E) an individual determined to be dependent by the head of the agency concerned or his designee;

(4) ''active service'' means active Federal service by an employee;

(5) ''missing status'' means the status of an employee who is in active service and is officially carried or determined to be absent in a status of—

(A) missing;

(B) missing in action;

(C) interned in a foreign country;

(D) captured, beleaguered, or besieged by a hostile force; or

(E) detained in a foreign country against his will;

but does not include the status of an employee for a period during which he is officially determined to be absent from his post of duty without authority; and

(6) ''pay and allowances'' means—

(A) basic pay;

(B) special pay;

(C) incentive pay;

(D) basic allowance for housing;

(E) basic allowance for subsistence; and

(F) station per diem allowances for not more than 90 days.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 489; Pub. L. 105–85, div. A, title VI, § 603(d)(3), Nov. 18, 1997, 111 Stat. 1783.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)–(4)	50A U.S.C. 1001.	Mar. 7, 1942, ch. 166, § 1, 56 Stat. 143. July 1, 1944, ch. 371, § 1, 58 Stat. 679. May 16, 1947, ch. 70, § 1, 61 Stat. 96. Aug. 29, 1957, Pub. L. 85–217, § 1(a), 71 Stat. 491. Aug. 14, 1964, Pub. L. 88–428, § 1(1), (2), 78 Stat. 437.

HISTORICAL AND REVISION NOTES—CONTINUED

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(5)	50A U.S.C. 1002(a) (3d through 66th words of 1st sentence, and 1st 28 words of 3d sentence, for definition purposes).	Mar. 7, 1942, ch. 166, § 2(a) (3d through 66th words and 96th through 120th words of 1st sentence, and 1st 28 words of 3d sentence, for definition purposes); added July 1, 1944, ch. 371, § 2, 58 Stat. 679. Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85–217, § 1(b) (1st par.), 71 Stat. 491. Aug. 14, 1964, Pub. L. 88–428, § 1(3)(A), (C), 78 Stat. 437.
(5)	50A U.S.C. 1014 (as applicable to § 1002(a) (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 2(a) (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(6)	50A U.S.C. 1002(a) (96th through 120th words of 1st sentence, for definition purposes).	

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In paragraph (1), the word ''agency'' is substituted for ''department''. The words ''including such term when used in the amendment made by section 16'' are omitted as surplusage. The words ''an Executive agency and a military department'' are coextensive with and substituted for ''any executive department, independent establishment, or agency (including corporations) in the executive branch of the Federal Government'' in view of the definitions in sections 105 and 102, and on authority of 5 U.S.C. 933a which provides that general legislation governing employment, compensation, and the status of employees of the United States applies to employees of the General Accounting Office in the same manner as if they were in the executive branch.

In paragraph (3)(A), the word ''lawful'' is omitted as unnecessary in view of the accepted recognition of the fact that the word ''wife'' means a lawful wife. In paragraph (3)(E), the words ''head of the agency concerned or his designee'' are substituted for ''head of the department concerned, or subordinate designated by him''.

The definitions in paragraphs (5) and (6), which do not appear in, but are based on, the source law are created for legislative convenience.

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

1997—Par. (6)(D). Pub. L. 105–85 substituted ''housing'' for ''quarters''.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 603(e) of Pub. L. 105–85 provided that: ''This section [amending this section, sections 708, 2830, 2882, 7572, and 7573 of Title 10, Armed Forces, section 107 of Title 32, National Guard, sections 101, 403, 405, 406, 420, 427, 551, and 1014 of Title 37, Pay and Allowances of the Uniformed Services, and section 454 of Title 50, Appendix, War and National Defense, repealing section 403a of Title 37, and enacting provisions set out as a note under section 403 of Title 37] and the amendments made by this section shall take effect on January 1, 1998.''

ACCOUNTING FOR CIVILIAN EMPLOYEES AND CONTRACTORS OF UNITED STATES

Pub. L. 104–106, div. A, title V, § 569(e), Feb. 10, 1996, 110 Stat. 352, directed Secretary of State to carry out comprehensive study of provisions of this subchapter and any other law or regulation establishing procedures for accounting for civilian employees of the United States or contractors of the United States who serve with or accompany the Armed Forces in the field to determine the means, if any, by which those procedures may be improved, and further provided for submission of report to Congress not later than one year after Feb. 10, 1996, on results of study.

BENEFITS FOR UNITED STATES HOSTAGES IN IRAQ AND KUWAIT AND UNITED STATES HOSTAGES CAPTURED IN LEBANON

Pub. L. 101–513, title V, § 599C, Nov. 5, 1990, 104 Stat. 2064, as amended by Pub. L. 102–138, title III, § 302(a), Oct. 28, 1991, 105 Stat. 707; Pub. L. 102–499, § 5(a), Oct. 24, 1992, 106 Stat. 3266, provided for payment of benefits during fiscal year 1991 and thereafter for United States hostages in Iraq and Kuwait and United States hostages captured in Lebanon.

HOSTAGE RELIEF

Pub. L. 96–449, Oct. 14, 1980, 94 Stat. 1967, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, known as the ''Hostage Relief Act of 1980'', provided for benefits for United States civil service and uniformed service personnel who were placed in a captive status during a hostage period beginning on Nov. 4, 1979, due to the seizure of the United States Embassy in Iran.

EXECUTIVE ORDER NO. 12268

Ex. Ord. No. 12268, Jan. 15, 1981, 46 F.R. 4671, provided for the implementation of the Hostage Relief Act of 1980 (Pub. L. 96–449).

EXECUTIVE ORDER NO. 12313

Ex. Ord. No. 12313, July 13, 1981, 46 F.R. 36689, designated Jan. 11, 1981, as date on which all citizens and resident aliens of the United States who had been placed in captive status as a result of seizure of United States Embassy in Iran were returned to United States or otherwise accounted for and were no longer under foreign control.

§ 5562. Pay and allowances; continuance while in a missing status; limitations

(a) An employee in a missing status is entitled to receive or have credited to his account, for the period he is in that status, the same pay and allowances to which he was entitled at the beginning of that period or may become entitled thereafter. Notwithstanding any other provision of law, an employee in a missing status on or after January 1, 1965, is entitled—

(1) to payment for annual leave which accrued to his account on or after January 1, 1965, but which was forfeited under section 6304 of this title because he was unable to use that leave by virtue of his missing status; or

(2) to have all of that leave restored to him and credited to a separate leave account in accordance with the provisions of section 6304(d)(2) of this title.

An employee shall elect in writing, within 90 days immediately following December 14, 1973, or within 90 days immediately following the termination of his missing status, whichever is later, whether he desires payment for the leave under clause (1) of this subsection or credit of the leave under clause (2) of this subsection. Payment under clause (1) of this subsection shall be at the employee's rate of basic pay in effect at the time the leave was forfeited.

(b) Entitlement to pay and allowances under subsection (a) of this section ends on the date of—

(1) receipt by the head of the agency concerned of evidence that the employee is dead; or

(2) death prescribed or determined under section 5565 of this title.

That entitlement does not end—

(A) on the expiration of the term of service or employment of an employee while he is in a missing status; or

(B) earlier than the dates prescribed in paragraphs (1) and (2) of this subsection if the employee dies while he is in a missing status.

(c) An employee who is officially determined to be absent from his post of duty without authority is indebted to the United States for payments of amounts credited to his account under subsection (a) of this section for the period of that absence.

(d) When an employee in a missing status is continued in that status under section 5565 of this title, he continues to be entitled to have pay and allowances credited under subsection (a) of this section.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 490; Pub. L. 93–181, § 7(a), Dec. 14, 1973, 87 Stat. 707; Pub. L. 96–54, § 2(a)(33), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1002(a) (1st sentence, less last 46 words).	Mar. 7, 1942, ch. 166, § 2(a) (1st 2 sentences and 3d sentence, less 1st 28 words); added July 1, 1944, ch. 371, § 2, 58 Stat. 679. Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85–217, § 1(b), 71 Stat. 491. Aug. 14, 1964, Pub. L. 88–428, § 1(3)(A), (B), 78 Stat. 437.
	50A U.S.C. 1014 (as applicable to § 1002(a) (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 2(a) (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(b)	50A U.S.C. 1002(a) (last 46 words of 1st sentence, and 2d sentence).	
(c)	50A U.S.C. 1002(a) (3d sentence, less 1st 28 words).	
(d)	50A U.S.C. 1006 (2d sentence, as applicable to pay and allowances).	Mar. 7, 1942, ch. 166, § 6 (2d sentence, as applicable to pay and allowances); added Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093. Aug. 14, 1964, Pub. L. 88–428, § 1(5)(B), 78 Stat. 437.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words ''An employee in a missing status'' are substituted for the first 66 words of 50A U.S.C. 1002(a) to conform to the definitions in section 5561(2) and (5). The words ''pay and allowances'' are substituted for the enumeration of pay and allowances in the first sentence of 50A U.S.C. 1002(a) to conform to the definition in sections 5561(6). The words ''or is performing full-time training duty, other full-time duty, or inactive duty training'' and ''except that the pay and allowances for a person who is performing full-time training duty or other full-time duty without pay, or inactive duty training with or without pay, shall be that to which he would have been entitled if he had been performing full-time active duty with pay;'' are omitted as inapplicable to civilian officers and employees.

In subsection (b), the words ''under subsection (a) of this section'' are inserted for clarity.

In subsection (c), the words ''United States'' are substituted for ''Government'' to conform to the style of this title. The words ''under subsection (a) of this section'' are inserted for clarity.

In subsection (d), the words ''an employee in a missing status'' are substituted for ''a person missing under the conditions specified in section 2 of this Act'' to conform to the definitions in section 5561(2) and (5).

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

1979—Subsec. (a). Pub. L. 96–54 substituted ''December 14, 1973,'' for ''the date of enactment of this sentence''.

1973—Subsec. (a). Pub. L. 93–181 inserted provisions relating to employees in missing status on or after January 1, 1965.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

FORMER EMPLOYEES OR THEIR BENEFICIARIES

Section 7(b) of Pub. L. 93–181 provided that: ''The amendment made by subsection (a) of this section [amending subsec. (a) of this section] shall apply to former employees or their beneficiaries.''

§ 5563. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations

(a) An allotment (including one for the purchase of United States savings bonds) made by an employee before he was in a missing status may be continued for the period he is in that status, notwithstanding the end of the period for which the allotment was made.

(b) In the absence of an allotment or when an allotment is insufficient for a purpose authorized by the head of the agency concerned, he or his designee may authorize such a new or increased allotment as circumstances warrant, which is payable for the period the employee concerned is in a missing status.

(c) All allotments from the pay and allowances of an employee in a missing status may not total more than the amount of pay and allowances he is permitted to allot under regulations prescribed by the head of the agency concerned.

(d) A premium paid by the United States on insurance issued on the life of an employee, which is unearned because it covers a period after his death, reverts to the appropriation of the agency concerned.

(e) Subject to subsections (f) and (g) of this section, the head of the agency concerned or his designee may direct the initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of an allotment from the pay and allowances of an employee in a missing status when that action is in the interests of the employee, his dependents, or the United States.

(f) When the head of the agency concerned officially reports that an employee in a missing status is alive, an allotment under subsections (a)–(d) of this section may be paid, subject to section 5562 of this title, until the date the head of the agency concerned receives evidence that the employee is dead or has returned to the controllable jurisdiction of the agency concerned.

(g) When an employee in a missing status is continued in that status under section 5565 of this title, an allotment under subsections (a)–(d) of this section may be continued, increased, or initiated.

(h) When the head of the agency concerned considers it essential for the well-being and protection of the dependents of an employee in active service (other than an employee in a missing status), he may, with or without the consent of the employee and subject to termination on specific request of the employee—

(1) direct the payment of a new allotment from the pay of the employee;

(2) increase or decrease the amount of an allotment made by the employee; and

(3) continue payment of an allotment of the employee which has expired.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 490.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1003 (1st sentence).	Mar. 7, 1942, ch. 166, §3, 56 Stat. 144. Dec. 24, 1942, ch. 828, §1 (1st par.), 56 Stat. 1092. July 1, 1944, ch. 371, §3, 58 Stat. 680.
(b)	50A U.S.C. 1003 (2d sentence, less proviso).	
(c)	50A U.S.C. 1003 (1st proviso of 2d sentence).	
(d)	50A U.S.C. 1003 (2d proviso of 2d sentence).	
(e)	50A U.S.C. 1004	Mar. 7, 1942, ch. 166, §4, 56 Stat. 144. Dec. 24, 1942, ch. 828, §1 (2d par.), 56 Stat. 1093. July 1, 1944, ch. 371, §4, 58 Stat. 680.
(f)	50A U.S.C. 1006 (1st sentence).	Mar. 7, 1942, ch. 166, §6 (1st sentence and 2d sentence, as applicable to allotments); added Dec. 24, 1942, ch. 828, §1 (4th par.), 56 Stat. 1093. Apr. 4, 1953, ch. 17, §1(b), 67 Stat. 21. Aug. 14, 1964, Pub. L. 88–428, §1(5), 78 Stat. 437.
	50A U.S.C. 1014 (as applicable to §1006 (1st sentence)).	Mar. 7, 1942, ch. 166, §14 (as applicable to §6 (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
(g)	50A U.S.C. 1006 (2d sentence, as applicable to allotments).	
(h)	50A U.S.C. 1007.	Mar. 7, 1942, ch. 166 §7, 56 Stat. 145. Aug. 14, 1964, Pub. L. 88–428, §1(6), 78 Stat. 437.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words ''employee . . . in a missing status'' are substituted for the reference to ''person . . . entitled under section 2 of this Act to receive or be credited with pay and allowances'' to conform to the definitions in section 5561(2) and (5). The words ''except as otherwise provided herein'' are omitted as unnecessary.

In subsection (b), the words ''head of the agency concerned, he or his designee'' are substituted for ''head of the department concerned . . . head of the department concerned, or such subordinate as he may designate''. The word ''employee'' is substituted for ''person'' to conform to the definition in section 5561(2).

In subsection (c), the words ''in effect'' are omitted as surplusage. The words ''employee in a missing status'' are substituted for ''absent person'' to conform to the definitions in section 5561(2) and (5).

In subsection (d), the words ''United States'' are substituted for ''Government'' to conform to the style of this title. The word ''employee'' is substituted for ''person'' to conform to the definition in section 5561(2).

In subsection (e), the words ''head of the agency concerned or his designee'' are substituted for ''head of the department concerned, or such subordinates as he may designate''. The words ''employee in a missing status'' are substituted for ''person entitled to receive or be credited with pay and allowances under section 2 of this Act'' to conform to the definitions in section 5561(2) and (5). The words ''United States'' are substituted for ''Government'' to conform to the style of this title.

In subsections (f) and (g), the words ''employee in a missing status'' are substituted for ''person missing under the conditions specified in section 2 of this Act'' to conform to the definitions in section 5561(2) and (5).

In subsection (h), the words ''employee in a missing status'' are substituted for ''persons entitled under section 2 or 14 of this Act to receive pay and allowances'' to conform to the definitions in section 5561(2) and (5). In paragraph (2), the words ''heretofore or hereafter'' 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.

§ 5564. Travel and transportation; dependents; household and personal effects; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable

(a) For the purpose of this section, ''household and personal effects'' and ''household effects'' may include, in addition to other authorized weight allowances, one privately owned motor vehicle which may be shipped at United States expense.

(b) Transportation (including packing, crating, draying, temporarily storing, and unpacking of household and personal effects) may be provided for the dependents and household and personal effects of an employee in active service (without regard to pay grade) who is officially reported as dead, injured, or absent for more than 29 days in a status listed in section 5561(5)(A)–(E) of this title to—

(1) the official residence of record for the employee;

(2) the residence of his dependent, next of kin, or other person entitled to the effects under regulations prescribed by the head of the agency concerned; or

(3) another location determined in advance or later approved by the head of the agency concerned or his designee on request of the employee (if injured) or his dependent, next of kin, or other person described in paragraph (2) of this subsection.

(c) When an employee described in subsection (b) of this section is in an injured status, trans-

portation of dependents and household and personal effects may be provided under this section only when prolonged hospitalization or treatment is anticipated.

(d) Transportation on request of a dependent may be authorized under this section only when there is a reasonable relationship between the circumstances of the dependent and the destination requested.

(e) Instead of providing transportation for dependents under this section, when the travel has been completed the head of the agency concerned may authorize—

(1) reimbursement for the commercial cost of the transportation; or

(2) a monetary allowance, instead of transportation, as authorized by statute for the whole or that part of the travel for which transportation in kind was not furnished.

(f) The head of the agency concerned may store the household and personal effects of an employee described in subsection (b) of this section until proper disposition can be made. The cost of the storage and transportation (including packing, crating, draying, temporarily storing, and unpacking) of household and personal effects shall be charged against appropriations currently available.

(g) When the head of the agency concerned determines that an emergency exists and that a sale would be in the best interests of the United States, he may provide for the public or private sale of motor vehicles and other bulky items of the household and personal effects of an employee described in subsection (b) of this section. Before a sale, and if practicable, a reasonable effort shall be made to determine the desires of interested persons. The net proceeds from the sale shall be sent to the owner or other person entitled thereto under regulations prescribed by the head of the agency concerned. If there is no owner or other person entitled thereto, or if the owner or other person or their addresses are not ascertained within 1 year from the date of sale, the net proceeds may be covered into the Treasury of the United States as miscellaneous receipts.

(h) A claim for net proceeds covered into the Treasury under subsection (g) of this section may be filed with the Administrator of General Services by the owner, his heir or next of kin, or his legal representative at any time before the end of 5 years from the date the proceeds are covered into the Treasury. When a claim is filed, the Administrator of General Services shall allow or disallow it. A claim that is allowed shall be paid from the appropriation for refunding money erroneously received and covered. If a claim is not filed before the end of 5 years from the date the proceeds are covered into the Treasury, it is barred from being acted on by the Administrator of General Services or the courts.

(i) This section does not amend or repeal—

(1) section 2575, 2733, 4712, 6522, or 9712 of title 10;

(2) section 507 of title 14; or

(3) chapter 171 of title 28.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 491; Pub. L. 90–83, § 1(33), Sept. 11, 1967, 81 Stat. 201; Pub. L. 102–190, div. A, title X, § 1063(a), Dec. 5, 1991, 105 Stat. 1476; Pub. L. 104–316, title II, § 202(a), Oct. 19, 1996, 110 Stat. 3842.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1012 (14th sentence).	Mar. 7, 1942, ch. 166, § 12, 56 Stat. 146. Feb. 12, 1946, ch. 6, § 1(a), 60 Stat. 5. Aug. 29, 1951, ch. 356, § 1, 65 Stat. 207. Apr. 4, 1953, ch. 17, § 1(d), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85–217, § 1(d), 71 Stat. 492.
(b)	50A U.S.C. 1012 (1st sentence). 50A U.S.C. 1014 (as applicable to § 1012 (1st sentence)).	Aug. 14, 1964, Pub. L. 88–428, § 1(8), 78 Stat. 437. Mar. 7, 1942, ch. 166, § 14 (as applicable to § 12 (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(c)	50A U.S.C. 1012 (12th sentence).	
(d)	50A U.S.C. 1012 (13th sentence).	
(e)	50A U.S.C. 1012 (11th sentence).	
(f)	50A U.S.C. 1012 (9th and 10th sentences).	
(g)	50A U.S.C. 1012 (2d–4th sentences).	
(h)	50A U.S.C. 1012 (5th–7th sentences).	
(i)	50A U.S.C. 1012 (8th sentence).	

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words ''Beginning June 25, 1950, and'' are omitted as executed. The words ''not to exceed'' are omitted as unnecessary. The words ''outside the United States, or in Alaska or Hawaii'' are substituted for ''outside the continental limits of the United States or in Alaska''.

In subsection (b), the words ''Transportation . . . may be provided'' are substituted for ''may be moved''. The words ''an employee . . . for more than 28 days in a status listed in section 5561(5)(A)–(E) of this title'' are substituted for ''person . . . for a period of thirty days or more in any status listed in section 2 of this Act'' for clarity and to conform to the definitions in section 5561(2) and (5). In paragraph (1), the words ''the employee'' are substituted for ''any such person''. In paragraph (3), the words ''head of the agency concerned or his designee'' are substituted for ''head of the department concerned or by such person as he may designate''.

In subsection (c), the word ''employee'' is substituted for ''person''. The words ''transportation . . . may be provided under this section only when'' are substituted for ''movement . . . provided for herein may be authorized only in cases where''.

In subsection (d), the words ''on request of a dependent may be provided under . . . only'' are substituted for ''No . . . shall be authorized pursuant to . . . upon application by dependents unless''. The words ''condition and'' are omitted as surplusage.

In subsection (e)(1), the words ''reimbursement for'' are substituted for ''the payment in money of amounts equal to''.

In subsection (f), the word ''employee'' is substituted for ''person''. The words ''such time as'' are omitted as surplusage.

In subsection (g), the words ''United States'' are substituted for ''Government'' to conform to the style of this title. The word ''employee'' is substituted for ''per-

son''. The words ''under . . . prescribed'' are substituted for ''in accordance with . . . issued''.

In subsection (h), the words ''under subsection (g) of this section'' are substituted for ''under authority of this section''.

In subsection (i), the words ''the provisions of'' are omitted as surplusage. Paragraph (3) is substituted for ''the Federal Tort Claims Act (60 Stat. 842–847), as amended;'' to reflect the correct citation of that Act.

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

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5564(a)	50 App.: 1012.	Oct. 19, 1965, Pub. L. 89–271, 79 Stat. 992.

Only that portion of the source law applicable to civilian officers and employees and their dependents is codified in this section. That portion of the source law applicable to members of the uniformed services and their dependents is codified in 37 U.S.C. 554(a) by section 5(2) of this bill.

AMENDMENTS

1996—Subsec. (h). Pub. L. 104–316 substituted ''Administrator of General Services'' for ''General Accounting Office'' wherever appearing.

1991—Subsec. (i)(1). Pub. L. 102–190 substituted ''6522, or 9712'' for ''4713, 6522, 9712, or 9713''.

§ 5565. Agency review

(a) When an employee has been in a missing status almost 12 months and no official report of his death or the circumstances of his continued absence has been received by the head of the agency concerned, he shall have the case fully reviewed. After that review and the end of 12 months in a missing status, or after any later review which shall be made when warranted by information received or other circumstances, the head of the agency concerned or his designee may—

(1) direct the continuance of his missing status, if there is a reasonable presumption that the employee is alive; or

(2) make a finding of death.

(b) When a finding of death is made under subsection (a) of this section, it shall include the date death is presumed to have occurred for the purpose of the ending of crediting pay and allowances and settlement of accounts. That date is—

(1) the day after the day on which the 12 months in a missing status ends; or

(2) a day determined by the head of the agency concerned or his designee when the missing status has been continued under subsection (a) of this section.

(c) For the purpose of determining status under this section, a dependent of an employee in active service is deemed an employee. A determination under this section made by the head of the agency concerned or his designee is conclusive on all other agencies of the United States. This section does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 492.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1005 (1st and 2d sentences).	Mar. 7, 1942, ch. 166, §5, 56 Stat. 145. Dec. 24, 1942, ch. 828, §1 (3d par.), 56 Stat. 1093. Aug. 14, 1964, Pub. L. 88–428, §1(4), 78 Stat. 437.
	50A U.S.C. 1014 (as applicable to §1005 (1st sentence)).	Mar. 7, 1942, ch. 166, §14 (as applicable to §5 (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
(b)	50A U.S.C. 1005 (less 1st and 2d sentences).	
(c)	50A U.S.C. 1009(b) (as applicable to §1005).	Mar. 7, 1942, ch. 166, §9(b) (as applicable to §5); added Aug. 29, 1957, Pub. L. 85–217, §1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words ''When an employee has been in a missing status almost 12 months'' are substituted for ''When the twelve months' period from the date of commencement of absence is about to expire in any case of a person entitled under section 2 of this Act to receive or be credited with pay and allowances'' for clarity and to conform to the definitions in section 5561(2) and (5). For the same reasons, the words ''the end of 12 months in a missing status'' are substituted for ''the twelve months' absence shall have expired''. The words ''or his designee'' are supplied on authority of 50A U.S.C. 1009(a) which is codified in part in section 5566(a). In paragraph (1), the words ''his'' and ''employee'' are substituted for ''person's'' and ''person''.

In subsection (b), the words ''under subsection (a) of this section'' are inserted for clarity. The words ''and payment of death gratuities'' are omitted as inapplicable to civilian officers and employees. In paragraph (1), the words ''the day on which the 12 months in a missing status ends'' are substituted for ''the day of expiration of an absence of twelve months'' for consistency with subsection (a) of this section and in view of the definition in section 5561(5). In paragraph (2), the words ''or his designee'' are supplied on authority of 50A U.S.C. 1009(a) which is in part codified in section 5566(a). The words ''under subsection (a) of this section'' are substituted for ''as hereinbefore authorized''.

In subsection (c), the word ''sole'' is omitted as surplusage and in view of the provisions of section 5566(h). The word ''deemed'' is supplied to evidence the legal fiction provided by the words ''is a 'person' under this Act'' in 50A U.S.C. 1009(a). The words ''or his designee'' are supplied on authority of 50A U.S.C. 1009(a) which is in part codified in section 5566(a). The words ''agencies of the United States'' are substituted for ''departments of the Government''. The words ''This section does not entitle'' are substituted for ''*Provided*, That nothing in this section shall be construed as conferring . . . any right''.

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

§ 5566. Agency determinations

(a) The head of the agency concerned or his designee may make any determination necessary to administer this subchapter, and when so made it is conclusive as to—

(1) death or finding of death;

(2) the fact of dependency under this subchapter;

(3) any other status covered by this subchapter;

(4) an essential date, including one on which evidence or information is received by the head of the agency concerned; and

(5) whether information received concerning an employee is to be construed and acted on as an official report of death.

(b) When the head of the agency concerned receives information that he considers to conclusively establish the death of an employee, he shall take action thereon as an official report of death, notwithstanding an earlier action relating to death or other status of the employee. After the end of 12 months in a missing status prescribed by section 5565 of this title, the head of the agency concerned or his designee shall make a finding of death when he considers that the information received, or a lapse of time without information, establishes a reasonable presumption that an employee in a missing status is dead.

(c) The head of the agency concerned or his designee may determine the entitlement of an employee to pay and allowances under this subchapter, including credits and charges in his account, and that determination is conclusive. An account may not be charged or debited with an amount that an employee captured, beleaguered, or besieged by a hostile force may receive or be entitled to receive from, or have placed to his credit by, the hostile force as pay, allowances, or other compensation.

(d) When circumstances warrant the reconsideration of a determination made under this subchapter, the head of the agency concerned or his designee may change or modify it.

(e) When the account of an employee has been charged or debited with an allotment paid under this subchapter, the amount so charged or debited shall be recredited to the account of the employee if the head of the agency concerned or his designee determines that the payment was induced by fraud or misrepresentation to which the employee was not a party.

(f) Except an allotment for an unearned insurance premium, an allotment paid from the pay and allowances of an employee for the period he is in a missing status may not be collected from the allottee as an overpayment when payment was caused by delay in receiving evidence of death. An allotment paid for a period after the end, under this subchapter or otherwise, of entitlement to pay and allowances may not be collected from the allottee or charged against the pay of a deceased employee when payment was caused by delay in receiving evidence of death.

(g) The head of the agency concerned or his designee may waive the recovery of an erroneous payment or overpayment of an allotment to a dependent if he considers recovery is against equity and good conscience.

(h) For the purpose of determining status under this section, a dependent of an employee in active service is deemed an employee. A determination under this section made by the head of the agency concerned or his designee is conclusive on all other agencies of the United States. This section does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 493.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1009(a) (1st and 2d sentences).	Mar. 7, 1942, ch. 166, §9(a) (less 5th and last sentences); added July 1, 1944, ch. 371, §5, 58 Stat. 680. Apr. 4, 1953, ch. 17, §1(c), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85–217, §1(c), 71 Stat. 492.
	50A U.S.C. 1010.	Mar. 7, 1942, ch. 166, §10, 56 Stat. 145. July 1, 1944, ch. 371, §6, 58 Stat. 681. Aug. 14, 1964, Pub. L. 88–428, §1(7), 78 Stat. 437.
(b)	50A U.S.C. 1009(a) (3d and 4th sentences).	
(c)	50A U.S.C. 1009(a) (6th sentence, less last proviso).	
	50A U.S.C. 1014 (as applicable to §1009(a) (1st proviso of 6th sentence)).	Mar. 7, 1942, ch. 166, §14 (as applicable to §9(a) (1st proviso of 6th sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
(d)	50A U.S.C. 1009(a) (7th sentence).	
(e)	50A U.S.C. 1009(a) (last proviso of 6th sentence).	
(f)	50A U.S.C. 1009(a) (8th sentence).	
(g)	50A U.S.C. 1009(a) (9th sentence).	
(h)	50A U.S.C. 1009(b) (as applicable to §1009).	Mar. 7, 1942, ch. 166, §9(b) (as applicable to §9); added Aug. 29, 1957, Pub. L. 85–217, §1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words ''head of the agency concerned or his designee'' are substituted for ''head of the department concerned, or such subordinate as he may designate''. The words ''for the purposes of this Act'' are omitted as surplusage. The words ''final and'' in 50A U.S.C. 1010 are omitted as surplusage and for consistency with 50A U.S.C. 1009(a) (1st sentence). The words ''the determination of the fact of dependency for the purpose of payment of all six months' death gratuities as authorized by law, and the determination of the fact of dependency under the provisions of any and all other laws providing for the payment of pay, allowances, or other emoluments to enlisted personnel in the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States where such payments are contingent upon dependency'' in 50A U.S.C. 1010 are omitted as inapplicable to civilian officers and employees and their dependents. In paragraph (2), the words ''under this subchapter'' are substituted for ''under the provisions of this Act''. In paragraph (3), the words ''covered by this subchapter'' are substituted for ''dealt with by this Act''. In paragraph (4), the words ''by the head of the agency concerned'' are substituted for ''in such department or by the head thereof''. In paragraph (5), the word ''employee'' is substituted for ''person''.

In subsection (b), the words ''head of the agency concerned'' are substituted for ''department concerned''. The word ''employee'' is substituted for ''person''. In the second sentence, the words ''the head of the agency concerned or his designee'' are inserted for clarity. The words ''is dead'' are substituted for ''is no longer alive'' for consistency with references in this section to ''death''.

In subsection (c), the words ''or his designee'' are substituted for ''or by such subordinate as he may designate''. The words ''captured, beleaguered, or besieged

by a hostile force'' are substituted for ''in the hands of a hostile force'' on authority of 50A U.S.C. 1014.

In subsection (d), the words ''under this subchapter'' are substituted for ''authorized to be made by this Act''. The words ''or his designee'' are substituted for ''or such subordinate as he may designate''.

In subsection (e), the words ''an employee . . . allotment paid under this subchapter'' are substituted for ''any person . . . allotments paid pursuant to this Act''. The words ''the employee if the head of the agency concerned or his designee'' are substituted for ''such person's . . . in any case in which . . . the head of the department concerned, or such subordinate as he may designate.''

In subsection (f), the words ''may not be collected'' are substituted for ''shall not be subject to collection'' in two places. The word ''employee'' is substituted for ''person''.

In subsection (g), the words ''or his designee'' are substituted for ''or such subordinate as he may designate''.

In subsection (h), the word ''sole'' is omitted as surplusage and in view of the provisions of section 5565(c). The word ''deemed'' is supplied to evidence the legal fiction provided by the words ''is a 'person' under this Act'' in 50A U.S.C. 1009(a). The words ''or his designee'' are supplied on authority of 50A U.S.C. 1009(a) which is codified in part in subsection (a) of this section. The words ''agencies of the United States'' are substituted for ''departments of the Government''. The words ''This section does not entitle'' are substituted for ''*Provided*, That nothing in this section shall be construed as conferring . . . any right''.

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

§ 5567. Settlement of accounts

(a) The head of the agency concerned or his designee may settle the accounts of—

(1) an employee for whose account payment has been made under sections 5562, 5563, and 5565 of this title; and

(2) a survivor of a casualty to a ship, station, or military installation which results in the loss or destruction of disbursing records.

That settlement is conclusive on the accounting officials of the United States in settling the accounts of disbursing officials.

(b) Payment or settlement of an account made pursuant to a report, determination, or finding of death may not be recovered or reopened because of a later report or determination which fixes a date of death. However, an account shall be reopened and settled on the basis of a date of death so fixed which is later than that used as a basis for earlier settlement.

(c) In settling the accounts of a disbursing official, he is entitled to credit for an erroneous payment or overpayment made by him in carrying out this subchapter, except section 5568, if there is no fraud or criminality by him. Recovery may not be made from an individual who authorizes a payment under this subchapter, except section 5568, if there is no fraud or criminality by him.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 494.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1011.	Mar. 7, 1942, ch. 166, § 11, 56 Stat. 146.
(b)	50A U.S.C. 1009(a) (5th sentence).	Mar. 7, 1942, ch. 166, § 9(a) (5th and last sentences); added July 1, 1944, ch. 371, § 5, 58 Stat. 680. Aug. 29, 1957, Pub. L. 85–217, § 1(c), 71 Stat. 492.
(c)	50A U.S.C. 1009(a) (last sentence).	

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words ''or his designee'' are substituted for ''or such person as he may designate''. The word ''employee'' is substituted for ''persons''. The words ''United States'' are substituted for ''Government'' to conform to the style of this title.

In subsection (c), the words ''in carrying out this subchapter, except section 5568'' are substituted for ''in carrying out the provisions of this Act, except sections 13, 16, 17, and 18'', since sections 16 and 17 are scheduled for repeal (see Table II) and section 18 was previously repealed. The words ''under this subchapter, except section 5568'' are substituted for ''under such provisions'' for the reasons stated in the preceding sentence.

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

§ 5568. Income tax deferment

Notwithstanding other statutes, any Federal income tax return of, or the payment of any Federal income tax by, an employee who, at the time the return or payment would otherwise become due, is in a missing status does not become due until the earlier of the following dates:

(1) the fifteenth day of the third month in which he ceased (except because of death or incompetency) being in a missing status, unless before the end of that fifteenth day he is again in a missing status; or

(2) the fifteenth day of the third month after the month in which an executor, administrator, or conservator of the estate of the taxpayer is appointed.

That due date is prescribed subject to the power of the Secretary of the Treasury or his delegate to extend the time for filing the return or paying the tax, as in other cases, and to assess and collect the tax as provided by sections 6851, 6861, and 6871 of title 26 in cases in which the assessment or collection is jeopardized and in cases of bankruptcy or receivership.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 494.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	50A U.S.C. 1013.	Mar. 7, 1942, ch. 166, § 13, 56 Stat. 146. Aug. 8, 1947, ch. 515, § 6, 61 Stat. 918. Aug. 14, 1964, Pub. L. 88–428, § 1(9), 78 Stat. 437.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

The words ''in the case of any taxable year beginning after December 31, 1940'' are omitted as unnecessary.

The words ''an employee'' are substituted for ''any civilian officer or employee of any department'' to conform to the definition in section 5561(2). The words ''in

a missing status'' are substituted for ''absent from his duty station under the conditions specified in section 2 of this Act'' to conform to the definition in section 5561(5) and in view of the provisions of section 5562 establishing the entitlement of an employee in a missing status to receive pay and allowances or to have them credited to his account. Reference to ''title 26'' is substituted for ''Internal Revenue Code of 1954''.

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

§ 5569. Benefits for captives

(a) For the purpose of this section—

(1) ''captive'' means any individual in a captive status commencing while such individual is—

(A) in the Civil Service, or

(B) a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services);

(2) ''captive status'' means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual's relationship with the Government;

(3) ''missing status''—

(A) in the case of an employee, has the meaning provided under section 5561(5) of this title; and

(B) in the case of an individual other than an employee, has a similar meaning; and

(4) ''family member'', as used with respect to a person, means—

(A) any dependent of such person; and

(B) any individual (other than a dependent under subparagraph (A)) who is a member of such person's family or household.

(b)(1) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any captive to the extent that such pay and allowances are not subject to an allotment under section 5563 of this title or any other provision of law.

(2) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

(3) Amounts in the savings fund credited to a captive shall be considered as pay and allowances for purposes of section 5563 of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

(4) Any interest accruing under this subsection on—

(A) any amount for which an individual is indebted to the United States under section 5562(c) of this title shall be deemed to be part of the amount due under such section 5562(c); and

(B) any amount referred to in section 5566(f) of this title shall be deemed to be part of such amount for purposes of such section 5566(f).

(5) An allotment under this subsection may be made without regard to section 5563(c) of this title.

(c) The head of an agency shall pay (by advancement or reimbursement) any individual who is a captive, and any family member of such individual, for medical and health care, and other expenses related to such care, to the extent that such care—

(1) is incident to such individual being a captive; and

(2) is not covered—

(A) by any Government medical or health program; or

(B) by insurance.

(d)(1) Except as provided in paragraph (3), the President shall make a cash payment, computed under paragraph (2), to any individual who became or becomes a captive commencing on or after November 4, 1979. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such individual terminates or, in the case of any individual whose status as a captive terminated before the date of the enactment of the Victims of Terrorism Compensation Act, before the end of the one-year period beginning on such date.

(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act, the amount of the payment under this subsection with respect to an individual held as a captive shall be not less than one-half of the amount of the world-wide average per diem rate under section 5702 of this title which was in effect for each day that individual was so held.

(3) The President—

(A) may defer a payment under this subsection in the case of any individual who, during the one-year period described in paragraph (1), is charged with an offense described in subparagraph (B), until final disposition of such charge; and

(B) may deny such payment in the case of any individual who is convicted of an offense described in subsection (b) or (c) of section 8312 of this title committed—

(i) during the period of captivity of such individual; and

(ii) related to the captive status of such individual.

(4) A payment under this subsection shall be in addition to any other amount provided by law.

(5) The provisions of subchapter VIII of this chapter (or, in the case of any person not covered by such subchapter, similar provisions prescribed by the President) shall apply with respect to any amount due an individual under paragraph (1) after such individual's death.

(6) Any payment made under paragraph (1) which is later denied under paragraph (3)(B) is a claim of the United States Government for purposes of section 3711 of title 31.

(e)(1) Under regulations prescribed by the President, the benefits provided by the Servicemembers Civil Relief Act, including the benefits provided by section 702 of such Act but excluding the benefits provided by sections 104, 105, and 106, title IV, and title V (other than sections 501 and 510) of such Act, shall be provided in the case of any individual who is a captive.

(2) In applying such Act under this subsection—

(A) the term ''servicemember'' is deemed to include any such captive;

(B) the term ''period of military service'' is deemed to include the period during which the individual is in a captive status; and

(C) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed, in the case of any captive, to be references to an individual designated for that purpose by the President.

(f)(1)(A) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(B) Except as provided in subparagraph (C), payments shall be available under this paragraph for a spouse or child of an individual who is a captive for education or training which occurs—

(i) after that individual has been in captive status for 90 days or more, and

(ii) on or before—

(I) the end of any semester or quarter (as appropriate) which begins before the date on which the captive status of that individual terminates, or

(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date.

In order to respond to special circumstances, the appropriate agency head may specify a date for purposes of cessation of assistance under clause (ii) which is later than the date which would otherwise apply under such clause.

(C) In the event a captive dies and the death is incident to that individual being a captive, payments shall be available under this paragraph for a spouse or child of such individual for education or training which occurs after the date of such individual's death.

(D) The preceding provisions of this paragraph shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

(E) For the purpose of this paragraph, ''child'' means a dependent under section 5561(3)(B) of this title.

(2)(A) In order to respond to special circumstances, the head of an agency may pay (by advancement or reimbursement) a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(B) Payments shall be available under this paragraph for a captive for education or training which occurs—

(i) after the termination of that individual's captive status, and

(ii) on or before—

(I) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the captive status of that individual terminates, or

(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date, and

shall be available only to the extent that such payments are not otherwise authorized by law.

(3) Assistance under this subsection—

(A) shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 3524 of title 38; and

(B) may not be provided for any individual for a period in excess of 45 months (or the equivalent thereof in other than full-time education or training).

(4) Regulations prescribed to carry out this subsection shall provide that the program under this subsection shall be consistent with the assistance program under chapters 35 and 36 of title 38.

(g) Any benefit provided under subsection (c) or (d) may, under regulations prescribed by the President, be provided to a family member of an individual if—

(1) such family member is held in captive status; and

(2) such individual is performing service for the United States as described in subsection (a)(1)(A) when the captive status of such family member commences.

(h) Except as provided in subsection (d), this section applies with respect to any individual in a captive status commencing after January 21, 1981.

(i) Notwithstanding any other provision of this subchapter, any determination by the President under subsection (a)(2) or (d) shall be conclusive and shall not be subject to judicial review.

(j) The President may prescribe regulations necessary to administer this section.

(k) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.

(Added Pub. L. 99–399, title VIII, § 803(a), Aug. 27, 1986, 100 Stat. 879; amended Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 108–189, § 2(b)(2), Dec. 19, 2003, 117 Stat. 2865.)

REFERENCES IN TEXT

The date of the enactment of the Victims of Terrorism Compensation Act [title VIII of Pub. L. 99–399], referred to in subsec. (d)(1), is Aug. 27, 1986.

Section 802 of the Victims of Terrorism Compensation Act [Pub. L. 99–399], referred to in subsec. (d)(2), is set out as a note below.

The Servicemembers Civil Relief Act, referred to in subsec. (e)(1), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of Title 50, Appendix, War and National Defense. Titles IV and V of the Act are classified to sections 541 et seq. and 561 et seq., respectively, of Title 50, Appendix. Sections 104, 105, 106, 501, 510, and 702 of the Act are classified to sections 514, 515, 516, 561, 570, and 592, respec-

tively, of Title 50, Appendix. For complete classification of this Act to the Code, see section 501 of Title 50, Appendix, and Tables.

AMENDMENTS

2003—Subsec. (e)(1). Pub. L. 108–189, § 2(b)(2)(A), which directed substitution of ''provided by the Servicemembers Civil Relief Act, including the benefits provided by section 702 of such Act but excluding the benefits provided by sections 104, 105, and 106, title IV, and title V (other than sections 501 and 510) of such Act'' for '' 'provided by the Soldiers' and Sailors' Civil Relief Act of 1940' and all that follows through 'of such Act' '' was executed by making the substitution for ''provided by the Soldiers' and Sailors' Civil Relief Act of 1940, including the benefits provided by section 701 of such Act but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act'' to reflect the probable intent of Congress.

Subsec. (e)(2)(A). Pub. L. 108–189, § 2(b)(2)(B), substituted ''servicemember'' for ''person in the military service''.

1991—Subsec. (f)(3)(A). Pub. L. 102–83 substituted ''section 3524 of title 38'' for ''section 1724 of title 38''.

SHORT TITLE OF 1986 AMENDMENT

Section 801 of title VIII of Pub. L. 99–399 provided that: ''This title [enacting this section, section 5570 of this title, sections 1051, 1095, and 2181 to 2185 of Title 10, Armed Forces, and sections 559 and 1013 of Title 37, Pay and Allowances of the Uniformed Services, amending section 6325 of this title, and enacting provisions set out as notes under this section, sections 1051, 1095, and 2181 of Title 10, and section 559 of Title 37] may be cited as the 'Victims of Terrorism Compensation Act'.''

PAYMENT TO INDIVIDUALS HELD IN CAPTIVE STATUS BETWEEN NOVEMBER 4, 1979, AND JANUARY 21, 1981

Section 802 of title VIII of Pub. L. 99–399 provided that: ''The amount of the payment for individuals in the Civil Service referred to in section 5569(d) of title 5, United States Code (as added by section 803 of this title), or for individuals in the uniformed services referred to in section 559(c) of title 37, United States Code (as added by section 806 of this title), as the case may be, shall be $50 for each day any such individual was held in captive status during a period commencing on or after November 4, 1979, and ending on or before January 21, 1981.''

TRANSITION PROVISIONS

Section 805 of title VIII of Pub. L. 99–399 provided that:

''(a) SAVINGS FUND.—(1) Amounts may be allotted to the savings fund under subsection (b) of section 5569 of title 5, United States Code (as added by section 803(a) of this Act) from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

''(2) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

''(b) MEDICAL AND HEALTH CARE; EDUCATIONAL EXPENSES.—Subsections (c) and (f) of such section 5569 (as so added) shall be carried out with respect to the period after January 21, 1981, and before the effective date of those subsections, under regulations prescribed by the President.

''(c) DEFINITION.—For the purpose of this subsection, 'pay and allowances' has the meaning provided under section 5561 of title 5, United States Code.''

REGULATIONS

Section 807 of title VIII of Pub. L. 99–399 provided that: ''Any regulation required by this title or by any amendment made by this title [see Short Title note above] shall take effect not later than 6 months after the date of enactment of this Act [Aug. 27, 1986].''

EFFECTIVE DATE OF ENTITLEMENTS

Section 808 of title VIII of Pub. L. 99–399 provided that: ''Provisions enacted by this title [see Short Title note above] which provide new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)(C)] shall not be effective until October 1, 1986.''

EXECUTIVE ORDER NO. 12576

Ex. Ord. No. 12576, Dec. 2, 1986, 51 F.R. 43721, relating to victims of terrorism compensation, was superseded by Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, set out below.

EX. ORD. NO. 12598. VICTIMS OF TERRORISM COMPENSATION

Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99–399, 100 Stat. 853) (''the Act'') [see Short Title note set out above], and in order to provide for the implementation of that Act, it is hereby ordered as follows:

SECTION 1. The functions vested in the President by that part of section 803(a) of the Act to be codified at 5 U.S.C. 5569 are delegated to the Secretary of State.

SEC. 2. The functions vested in the President by that part of section 803(a) of the Act to be codified at 5 U.S.C. 5570 are delegated to the Secretary of State, to be exercised in consultation with the Secretary of Labor.

SEC. 3. The functions vested in the President by section 806(a) (to be codified at 37 U.S.C. 559), section 806(c) (to be codified at 10 U.S.C. 1095 [now 10 U.S.C. 1095a]), and section 806(d) (to be codified at 10 U.S.C. 2181–2185) are delegated to the Secretary of Defense.

SEC. 4. The functions vested in the President by section 806(b) (to be codified at 10 U.S.C. 1051 [now 10 U.S.C. 1032]) are delegated to the Secretary of Defense, to be exercised in consultation with the Secretary of Labor.

SEC. 5. The Secretaries of State and Defense shall consult with each other and with the heads of other appropriate Executive departments and agencies in carrying out their functions under this Order.

SEC. 6. Executive Order No. 12576 of December 2, 1986, is hereby superseded.

RONALD REAGAN.

§ 5570. Compensation for disability or death

(a) For the purpose of this section—

(1) ''employee'' means—

(A) any individual in the Civil Service; and

(B) any individual rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services); and

(2) ''family member'', as used with respect to an employee, means—

(A) any dependent of such employee; and

(B) any individual (other than a dependent under subparagraph (A)) who is a member of the employee's family or household.

(b) The President shall prescribe regulations under which an agency head may pay compensation for the disability or death of an employee or a family member of an employee if, as determined by the President, the disability or death was caused by hostile action and was a result of the individual's relationship with the Government.

(c) Any compensation otherwise payable to an individual under this section in connection with any disability or death shall be reduced by any amounts payable to such individual under any other program funded in whole or in part by the United States (excluding any amount payable under section 5569(d) of this title) in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

(d) A determination by the President under subsection (b) shall be conclusive and shall not be subject to judicial review.

(e) Compensation under this section may include payment (whether by advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subsection (c) of section 5569 of this title (other than because of paragraph (2) of such subsection).

(f) This section applies with respect to any disability or death resulting from an injury which occurs after January 21, 1981.

(g) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.

(Added Pub. L. 99–399, title VIII, § 803(a), Aug. 27, 1986, 100 Stat. 882.)

DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Secretary of State to be exercised in consultation with the Secretary of Labor, see Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, set out as a note under section 5569 of this title.

CIVILIAN SERVICE RECOGNITION

Pub. L. 112–73, Dec. 20, 2011, 125 Stat. 784, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Civilian Service Recognition Act of 2011'.

''SEC. 2. PRESENTATION OF UNITED STATES FLAG ON BEHALF OF FEDERAL CIVILIAN EMPLOYEES WHO DIE OF INJURIES INCURRED IN CONNECTION WITH THEIR EMPLOYMENT.

''(a) PRESENTATION AUTHORIZED.—Upon receipt of a request under subsection (b), the head of an executive agency may give a flag of the United States for an individual who—

''(1) was an employee of the agency; and

''(2) dies of injuries incurred in connection with such individual's employment with the Federal Government, suffered as a result of a criminal act, an act of terrorism, a natural disaster, or other circumstance as determined by the President.

''(b) REQUEST FOR FLAG.—The head of an executive agency may furnish a flag for a deceased employee described in subsection (a) upon the request of—

''(1) the employee's widow or widower, child, sibling, or parent; or

''(2) if no request is received from an individual described in paragraph (1), an individual other than the next of kin as determined by the Director of the Office of Personnel Management.

''(c) CLASSIFIED INFORMATION.—The head of an executive agency may disclose information necessary to show that a deceased individual is an employee described in subsection (a) to the extent that such information is not classified and to the extent that such disclosure does not endanger the national security of the United States.

''(d) EMPLOYEE NOTIFICATION OF FLAG BENEFIT.—The head of an executive agency shall provide appropriate notice to employees of the agency of the flag benefit provided for under this section.

''(e) REGULATIONS.—The Director of the Office of Personnel Management, in coordination with the Secretary of Defense and the Secretary of Homeland Security, may prescribe regulations to implement this section. Any such regulations shall provide for the head of an executive agency to consider the conditions and circumstances surrounding the death of an employee and nature of the service of the employee.

''(f) DEFINITIONS.—In this section:

''(1) EMPLOYEE.—The term 'employee' has the meaning given that term in section 2105 of title 5, United States Code, and includes an officer or employee of the United States Postal Service or of the Postal Regulatory Commission.

''(2) EXECUTIVE AGENCY.—The term 'executive agency' has the meaning given that term in section 105 of title 5, United States Code, and includes the United States Postal Service and the Postal Regulatory Commission.''

SUBCHAPTER VIII—SETTLEMENT OF ACCOUNTS

§ 5581. Definitions

For the purpose of this subchapter—

(1) ''employee'' means—

(A) an employee as defined by section 2105 of this title; and

(B) an individual employed by the government of the District of Columbia;

but does not include an employee of—

(i) a Federal land bank;

(ii) a Federal intermediate credit bank;

(iii) a regional bank for cooperatives; or

(iv) the Senate within the purview of section 36a of title 2; and

(2) ''money due'' means the pay and allowances due on account of the services of a deceased employee for the Government of the United States or the government of the District of Columbia. It includes, but is not limited to—

(A) per diem instead of subsistence, mileage, and amounts due in reimbursement of travel expenses, including incidental and miscellaneous expenses in connection therewith for which reimbursement is due;

(B) allowances on change of official station;

(C) quarters and cost-of-living allowances and overtime or premium pay;

(D) amounts due for payment of cash awards for employees' suggestions;

(E) amounts due as refund of pay deductions for United States savings bonds;

(F) payment for accumulated and current accrued annual or vacation leave equal to the pay the deceased employee would have received had he lived and remained in the service until the end of the period of annual or vacation leave;

(G) amounts of checks drawn for pay and allowances which were not delivered by the Government to the employee during his lifetime;

(H) amounts of unnegotiated checks returned to the Government because of the death of the employee; and

(I) retroactive pay under section 5344(a) (2) of this title.

It does not include benefits, refunds, or interest payable under subchapter III of chapter 83 of this title applicable to the service of the deceased employee, or amounts the disposition of which is otherwise expressly prescribed by Federal statute.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 495; Pub. L. 96–54, § 2(a)(34), Aug. 14, 1979, 93 Stat. 383.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)	5 U.S.C. 61k.	Aug. 3, 1950, ch. 518, § 7, 64 Stat. 396. Apr. 30, 1954, ch. 177, § 2, 68 Stat. 65.
(2)	5 U.S.C. 61g.	Aug. 3, 1950, ch. 518, § 2, 64 Stat. 396. July 2, 1953, ch. 178, § 5, 67 Stat. 138. Sept. 1, 1954, ch. 1208, § 501, 68 Stat. 1115. Sept. 2, 1958, Pub. L. 85–914, § 1, 72 Stat. 1761.
	5 U.S.C. 61i.	Aug. 3, 1950, ch. 518, § 4, 64 Stat. 396.

Paragraph (1) is supplied for convenience and is based on the first 35 words of former section 61f, which is carried into section 5582, and former section 61k.

The exception for production credit corporations in section 7 of the Act of Aug. 3, 1950, is omitted as they were merged in the Federal intermediate credit banks by the Farm Credit Act of 1956, 70 Stat. 659.

The exception in paragraph (1)(iv) for employees of the Senate is added on authority of the Act of Jan. 6, 1951, ch. 1213, 64 Stat. 1124; 2 U.S.C. 36a.

In paragraph (2), the definition of ''money due'' is substituted for ''unpaid compensation''. Paragraph (2)(I) is added on authority of former section 1182(a)(2), which is carried into section 5344.

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

Section 5344 of this title, referred to in par. (2)(I), was amended generally by Pub. L. 92–392 and provisions relating to retroactive pay formerly contained in section 5344(a)(2) are contained in section 5344(b)(2).

AMENDMENTS

1979—Par. (1). Pub. L. 96–54 inserted ''and'' after cl. (iv).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 of this title.

§ 5582. Designation of beneficiary; order of precedence

(a) The employing agency shall notify each employee of his right to designate a beneficiary or beneficiaries to receive money due, and of the disposition of money due if a beneficiary is not designated. An employee may change or revoke a designation at any time under regulations promulgated—

(1) by the Director of the Office of Personnel Management or his designee, in the case of an employee of an executive agency;

(2) jointly by the President pro tempore of the Senate and the Speaker of the House of Representatives, or their designee, in the case of an employee of the legislative branch; and

(3) by the Chief Justice of the United States or his or her designee, in the case of an employee of the judicial branch.

(b) In order to facilitate the settlement of the accounts of deceased employees, money due an employee at the time of his death shall be paid to the person or persons surviving at the date of death, in the following order of precedence, and the payment bars recovery by another person of amounts so paid:

First, to the beneficiary or beneficiaries designated by the employee in a writing received in the employing agency before his death.

Second, if there is no designated beneficiary, to the widow or widower of the employee.

Third, if none of the above, to the child or children of the employee and descendants of deceased children by representation.

Fourth, if none of the above, to the parents of the employee or the survivor of them.

Fifth, if none of the above, to the duly appointed legal representative of the estate of the employee.

Sixth, if none of the above, to the person or persons entitled under the laws of the domicile of the employee at the time of his death.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 495; Pub. L. 104–316, title I, § 103(c), Oct. 19, 1996, 110 Stat. 3828.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 61j.	Aug. 3, 1950, ch. 518, § 5, 64 Stat. 396.
(b)	5 U.S.C. 61f.	Aug. 3, 1950, ch. 518, § 1, 64 Stat. 395.

Subsection (a) is restated for clarity. The word ''officers'' is omitted as included in ''employee''.

In subsection (b), so much of the first 35 words of former section 61f as states the application is carried into the definition of ''employee'' in section 5581(1). The word ''officer'' is omitted as included in ''employee''.

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

1996—Subsec. (a). Pub. L. 104–316 substituted ''An employee may change or revoke a designation at any time under regulations promulgated—'' for ''An employee may change or revoke a designation at any time under such regulations as the Comptroller General of the United States may prescribe.'' in introductory provisions and added pars. (1) to (3).

§ 5583. Payment of money due; settlement of accounts

(a) Under such regulations as the Director of the Office of Personnel Management may prescribe, the employing agency shall pay money due a deceased employee to the beneficiary designated by the employee under section 5582(b) of this title, or, if none, to the widow or widower of the employee.

(b) The Director may by regulation prescribe the method for settlement of accounts payable under subsection (a) of this section. However—

(1) accounts of employees of the government of the District of Columbia shall be paid by the District of Columbia; and

(2) accounts of employees of Government corporations or mixed ownership Government corporations may be paid by the corporations.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 496; Pub. L. 96–70, title III, § 3302(e)(7), Sept. 27, 1979, 93 Stat. 498; Pub. L. 104–316, title II, § 202(b), Oct. 19, 1996, 110 Stat. 3842.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 61h.	Aug. 3, 1950, ch. 518, § 3, 64 Stat. 396. Apr. 30, 1954, ch. 177, § 1, 68 Stat. 64.

In subsection (a), the word ''officer'' is omitted as included in ''employee''.

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

1996—Subsec. (a). Pub. L. 104–316, § 202(b)(1), substituted ''Director of the Office of Personnel Management'' for ''Comptroller General of the United States''.

Subsec. (b). Pub. L. 104–316, § 202(b)(2), substituted ''The Director may by regulation prescribe the method for settlement of accounts payable under subsection (a) of this section.'' for ''Except as the Comptroller General may by regulation otherwise authorize or direct, accounts not payable under subsection (a) of this section are payable on settlement of the General Accounting Office.''

1979—Subsec. (b). Pub. L. 96–70 struck out par. (2) providing that accounts of the employees of the Canal Zone Government be paid by the Canal Zone Government, and redesignated par. (3) as (2).

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.

§ 5584. Claims for overpayment of pay and allowances, and of travel, transportation and relocation expenses and allowances

(a) A claim of the United States against a person arising out of an erroneous payment of pay or allowances made on or after July 1, 1960, or arising out of an erroneous payment of travel, transportation or relocation expenses and allowances, to an employee of an agency, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by—

(1) the authorized official;

(2) the head of the agency when—

(A) the claim is in an amount aggregating not more than $1,500; and

(B) the waiver is made in accordance with standards which the authorized official shall prescribe; or

(3) the Director of the Administrative Office of the United States Courts when the claim is in an amount aggregating not more than $10,000 and involves an officer or employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or any of the courts set forth in section 610 of title 28.

(b) The authorized official or the head of the agency, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim;

(2) except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office, after the expiration of three years immediately following the date on which the erroneous payment of pay was discovered or three years immediately following October 21, 1968, whichever is later;

(3) except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office after the expiration of three years immediately following the date on which the erroneous payment of allowances was discovered or three years immediately following October 2, 1972, whichever is later;

(4) in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment of pay or allowances was discovered or 3 years immediately following July 25, 1974, whichever is later; or

(5) in the case of a claim involving an erroneous payment of travel, transportation or relocation expenses and allowances, if application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment was discovered.

(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the employing agency at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that employing agency for that refund within two years following the effective date of the waiver. The employing agency shall pay that refund in accordance with this section.

(d) In the audit and settlement of the accounts of any accountable official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment, the collection of which is waived under this section, is deemed a valid payment for all purposes.

(f) This section does not affect any authority under any other statute to litigate, settle, compromise, or waive any claim of the United States.

(g) For the purpose of this section, ''agency'' means—

(1) an Executive agency;

(2) the Government Printing Office;

(3) the Library of Congress;

(4) the Office of the Architect of the Capitol;

(5) the Botanic Garden;

(6) the Administrative Office of the United States Courts, the Federal Judicial Center, and any of the courts set forth in section 610 of title 28; and

(7) the Congressional Budget Office.

For purposes of this section, the Director of the Administrative Office of the United States Courts shall be the head of the agency in the case of those entities set forth in paragraph (6) of this subsection.

(g)[1] For the purpose of this section, the term ''authorized official'' means—

(1) the head of an agency, with respect to an agency or employee in the legislative branch; or

(2) the Director of the Office of Management and Budget, with respect to any other agency or employee.

(Added Pub. L. 90–616, § 1(a), Oct. 21, 1968, 82 Stat. 1212; amended Pub. L. 92–453, § 3(1), Oct. 2, 1972, 86 Stat. 760; Pub. L. 93–359, § 1, July 25, 1974, 88 Stat. 393; Pub. L. 96–54, § 2(a)(35), Aug. 14, 1979, 93 Stat. 383; Pub. L. 99–224, § 1(a), Dec. 28, 1985, 99 Stat. 1741; Pub. L. 100–702, title X, § 1009(a), Nov. 19, 1988, 102 Stat. 4667; Pub. L. 102–190, div. A, title VI, § 657(a), Dec. 5, 1991, 105 Stat. 1393; Pub. L. 104–316, title I, § 103(d), Oct. 19, 1996, 110 Stat. 3828; Pub. L. 109–55, title I, § 1100(a), Aug. 2, 2005, 119 Stat. 577.)

AMENDMENTS

2005—Subsec. (g)(7). Pub. L. 109–55 added par. (7) in subsec. (g) defining ''agency''.

1996—Subsec. (a). Pub. L. 104–316, § 103(d)(1), in par. (1) substituted ''authorized official'' for ''Comptroller General of the United States'', and in par. (2) inserted ''and'' at end of subpar. (A), redesignated subpar. (C) as (B) and substituted ''authorized official'' for ''Comptroller General'', and struck out former subpar. (B) which read as follows: ''the claim is not the subject of an exception made by the Comptroller General in the account of any accountable official; and''.

Subsec. (b). Pub. L. 104–316, § 103(d)(2), substituted ''authorized official'' for ''Comptroller General'' in introductory provisions.

Subsec. (g). Pub. L. 104–316, § 103(d)(3), added subsec. (g) defining ''authorized official''.

1991—Subsec. (a)(2)(A). Pub. L. 102–190 substituted ''$1,500'' for ''$500''.

1988—Subsec. (a)(3). Pub. L. 100–702, § 1009(a)(1), added par. (3).

Subsec. (g). Pub. L. 100–702, § 1009(a)(2), added par. (6) and last sentence.

1985—Pub. L. 99–224, § 1(a)(1), substituted ''and of travel, transportation and relocation expenses and allowances'' for ''other than travel and transportation expenses and allowances and relocation expenses'' in section catchline.

Subsec. (a). Pub. L. 99–224, § 1(a)(2), substituted ''made on or after July 1, 1960, or arising out of an erroneous payment of travel, transportation or relocation expenses and allowances'' for '', other than travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title, on or after July 1, 1960''.

Subsec. (b). Pub. L. 99–224, § 1(a)(3), added par. (5).

1979—Subsec. (b)(4). Pub. L. 96–54 substituted ''July 25, 1974'' for ''the date on which this clause (4) is enacted into law''.

1974—Subsec. (a). Pub. L. 93–359, § 1(1), substituted ''agency'' for ''executive agency'' in provisions preceding cl. (1) and in cl. (2) preceding subcl. (A).

Subsec. (b). Pub. L. 93–359, § 1(1)–(4), substituted ''agency'' for ''executive agency'' in provisions preceding cl. (1), inserted ''except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden,'' immediately following the designation ''(2)'' in cl. (2) and immediately following the designation ''(3)'' in cl. (3), struck out ''or'' at end of cl. (2), substituted ''October 2, 1972, whichever is later; or'' for ''the effective date of the amendment authorizing the waiver of allowances, whichever is later'' in cl. (3) and struck out the period at end of cl. (3), and added cl. (4).

Subsec. (g). Pub. L. 93–359, § 1(5), added subsec. (g).

1972—Pub. L. 92–453 inserted ''and allowances, other than travel and transportation expenses and allowances and relocation expenses'' in section catchline, and substituted ''payment of pay or allowances, other than travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title'' for ''payment of pay'' in subsec. (a).

Subsec. (b)(2). Pub. L. 92–453 inserted ''if application for waiver is received in his office'' in cl. (2), and substituted ''October 21, 1968'' for ''the effective date of this section.''

Subsec. (b)(3). Pub. L. 92–453 added cl. (3).

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–55, title I, § 1100(b), Aug. 2, 2005, 119 Stat. 577, provided that: ''The amendments made by this section [amending this section] shall apply with respect to fiscal year 2006 and each succeeding fiscal year.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–316 effective 60 days after Oct. 19, 1996, see section 101(e)(2) of Pub. L. 104–316, set out as a note under section 130c of Title 2, The Congress.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1009(b) of Pub. L. 100–702 provided that: ''The amendments made by this section [amending this section] shall apply with respect to any claim arising before the date of the enactment of this Act [Nov. 19, 1988] which is pending on such date, and to any claim which arises on or after such date of enactment.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 4 of Pub. L. 99–224 provided that: ''The amendments made by section 1 of this Act [amending this section] shall apply to any claim arising out of an erroneous payment of travel, transportation, or relocation expenses and allowances made on or after the date of the enactment of this Act [Dec. 28, 1985]. The amendments made by sections 2 and 3 of this Act [amending section 2774 of Title 10, Armed Forces, and section 716 of Title 32, National Guard] shall apply to any claim arising out of an erroneous payment of travel and transportation allowances made on or after the date of the enactment of this Act.''

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54. set out as a note under section 305 of this title.

SUBCHAPTER IX—SEVERANCE PAY AND BACK PAY

AMENDMENTS

1967—Pub. L. 90–83, § 1(34)(A), Sept. 11, 1967, 81 Stat. 201, inserted ''SEVERANCE PAY AND'' before ''BACK PAY'' in subchapter heading.

[1] So in original. Probably should be ''(h)''.

[§§ 5591 to 5594. Repealed. Pub. L. 90–83, § 1(34)(B), Sept. 11, 1967, 81 Stat. 201]

HISTORICAL AND REVISION NOTES

This section deletes sections 5591, 5592, 5593, and 5594 of title 5, United States Code, to reflect the repeal of the source statutes of those sections by the act of March 30, 1966, Public Law 89–380, section 5, 80 Stat. 95.

[Sections, Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 496, 497, related to back pay for individuals or preference eligibles reinstated or restored, and are covered by section 5596 of this title.]

§ 5595. Severance pay

(a) For the purpose of this section—

(1) ''agency'' means—

(A) an Executive agency;

(B) the Library of Congress;

(C) the Government Printing Office;

(D) the government of the District of Columbia;

(E) the Administrative Office of the United States Courts, the Federal Judicial Center, and the courts named by section 610 of title 28; and

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

(2) ''employee'' means—

(A) an individual employed in or under an agency; and

(B) an individual employed by a county committee established under section 590h(b) of title 16;

but does not include—

(i) an employee (other than a member of the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or an employee whose pay is fixed under section 5376) whose rate of basic pay is fixed at a rate provided for one of the levels of the Executive Schedule or is in excess of the maximum rate for the Executive Schedule;

(ii) an employee serving under an appointment with a definite time limitation, except one so appointed for full-time employment without a break in service of more than 3 days following service under an appointment without time limitation;

(iii) an alien employee who occupies a position outside the several States, the District of Columbia, and the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979);

(iv) an employee who is subject to subchapter III of chapter 83 of this title or any other retirement statute or retirement system applicable to an employee as defined by section 2105 of this title or a member of a uniformed service and who, at the time of separation from the service, has fulfilled the requirements for immediate annuity under such a statute or system;

(v) an employee who, at the time of separation from the service, is receiving compensation under subchapter I of chapter 81 of this title, other than one receiving this compensation concurrently with pay or on account of the death of another individual;

(vi) an employee who, at the time of separation from the service, is entitled to receive benefits under section 609(b)(1) of the Foreign Service Act of 1980 or any other severance pay from the Government;

(vii) an employee of the Tennessee Valley Authority;

(viii) an employee of the Office of the Architect of the Capitol, who is employed on a temporary when actually employed basis;

(ix) an employee of the Government Printing Office, who is employed on a temporary when actually employed basis; or

(x) such other employee as may be excluded by regulations of the President or such other officer or agency as he may designate.

(b) Under regulations prescribed by the President or such officer or agency as he may designate, an employee who—

(1) has been employed currently for a continuous period of at least 12 months; and

(2) is involuntarily separated from the service, not by removal for cause on charges of misconduct, delinquency, or inefficiency;

is entitled to be paid severance pay in regular pay periods by the agency from which separated. However, the Director of the Administrative Office of the United States Courts may prescribe regulations to effect the application and operation of this section to the agencies specified in subsection (a)(1)(E) of this section. The Architect of the Capitol may prescribe regulations to effect the application and operation of this section to the agency specified in subsection (a)(1)(F) of this section. The Public Printer may prescribe regulations to effect the application and operation of this section to the agency specified in subsection (a)(1)(C) of this section.

(c) Severance pay consists of—

(1) a basic severance allowance computed on the basis of 1 week's basic pay at the rate received immediately before separation for each year of civilian service up to and including 10 years for which severance pay has not been received under this or any other authority and 2 weeks' basic pay at that rate for each year of civilian service beyond 10 years for which severance pay has not been received under this or any other authority; and

(2) an age adjustment allowance computed on the basis of 10 percent of the total basic severance allowance for each year by which the age of the recipient exceeds 40 years at the time of separation.

Total severance pay under this section may not exceed 1 year's pay at the rate received immediately before separation. For the purpose of this subsection, ''basic pay'' includes premium pay under section 5545(c)(1) of this title.

(d) If an employee is reemployed by the Government of the United States or the government of the District of Columbia before the end of the period covered by payments of severance pay, the payments shall be discontinued beginning with the date of reemployment and the service represented by the unexpired portion of the period shall be recredited to the employee for use in any later computations of severance pay. For the purpose of subsection (b) (1) of this section,

reemployment that causes severance pay to be discontinued is deemed employment continuous with that serving as the basis for severance pay.

(e) If the employee dies before the end of the period covered by payments of severance pay, the payments of severance pay with respect to the employee shall be continued as if the employee were living and shall be paid on a pay period basis to the survivor of the employee in accordance with section 5582(b) of this title.

(f) Severance pay under this section is not a basis for payment, and may not be included in the basis for computation, of any other type of United States or District of Columbia Government benefits. A period covered by severance pay is not a period of United States or District of Columbia Government service or employment.

(g) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this section to an individual named by subsection (a)(2)(B) of this section.

(h)(1) Severance pay under this section may not be paid to—

(A) a person described in paragraph (4)(A) during any period in which the person is employed in a defense nonappropriated fund instrumentality; or

(B) a person described in paragraph (4)(B) during any period in which the person is employed in a Coast Guard nonappropriated fund instrumentality.

(2)(A) Except as provided in subparagraph (B), payment of severance pay to a person referred to in paragraph (1) may be resumed upon any involuntary separation of the person from the position of employment in a nonappropriated fund instrumentality, not by removal for cause on charges of misconduct, delinquency, or inefficiency.

(B) Payment of severance pay may not be resumed under subparagraph (A) in the case of a person who, upon separation, is entitled to immediate payment of retired or retainer pay as a member or former member of the uniformed services or to an immediate annuity under—

(i) a retirement system for persons retiring from employment by a nonappropriated fund instrumentality;

(ii) subchapter III of chapter 83 of this title;

(iii) subchapter II of chapter 84 of this title; or

(iv) any other retirement system of the Federal Government for persons retiring from employment with the Federal Government.

(3) Upon resumption of payment of severance pay under paragraph (2)(A) in the case of a person separated as described in such paragraph, the amount of the severance pay so payable for a period shall be reduced (but not below zero) by the portion (if any) of the amount of any severance pay payable for such period to the person by the nonappropriated fund instrumentality that is attributable to credit for service taken into account under subsection (c) in the computation of the amount of the severance pay so resumed.

(4) Paragraph (1) applies to a person who, on or after January 1, 1987, moves without a break in service—

(A) from employment in the Department of Defense that is not employment in a defense nonappropriated fund instrumentality to employment in a defense nonappropriated fund instrumentality; or

(B) from employment in the Coast Guard that is not employment in a Coast Guard nonappropriated fund instrumentality to employment in a Coast Guard nonappropriated fund instrumentality.

(5) The Secretary of Defense, in consultation with the Secretary of Homeland Security, shall prescribe regulations to carry out this subsection.

(6) In this subsection:

(A) The term ''defense nonappropriated fund instrumentality'' means a nonappropriated fund instrumentality of the Department of Defense.

(B) The term ''Coast Guard nonappropriated fund instrumentality'' means a nonappropriated fund instrumentality of the Coast Guard.

(C) The term ''nonappropriated fund instrumentality'' means a nonappropriated fund instrumentality described in section 2105(c) of this title.

(i)(1) In the case of an employee of the Department of Defense who is entitled to severance pay under this section, the Secretary of Defense or the Secretary of the military department concerned may, upon application by the employee, pay the total amount of the severance pay to the employee in one lump sum.

(2)(A) If an employee paid severance pay in a lump sum under this subsection is reemployed by the Government of the United States or the government of the District of Columbia at such time that, had the employee been paid severance pay in regular pay periods under subsection (b), the payments of such pay would have been discontinued under subsection (d) upon such reemployment, the employee shall repay to the Department of Defense (for the military department that formerly employed the employee, if applicable) an amount equal to the amount of severance pay to which the employee was entitled under this section that would not have been paid to the employee under subsection (d) by reason of such reemployment.

(B) The period of service represented by an amount of severance pay repaid by an employee under subparagraph (A) shall be considered service for which severance pay has not been received by the employee under this section.

(C) Amounts repaid to an agency under this paragraph shall be credited to the appropriation available for the pay of employees of the agency for the fiscal year in which received. Amounts so credited shall be merged with, and shall be available for the same purposes and the same period as, the other funds in that appropriation.

(3) If an employee fails to repay to an agency an amount required to be repaid under paragraph (2)(A), that amount is recoverable from the employee as a debt due the United States.

(4) This subsection applies with respect to severance pay payable under this section for separations taking effect on or after February 10, 1996, and before October 1, 2014.

(j)(1) In the case of an employee of the Department of Energy who is entitled to severance pay

under this section as a result of the establishment of the National Nuclear Security Administration, the Secretary of Energy may, upon application by the employee, pay the total amount of the severance pay to the employee in one lump sum.

(2)(A) If an employee paid severance pay in a lump sum under this subsection is reemployed by the Government of the United States or the government of the District of Columbia at such time that, had the employee been paid severance pay in regular pay periods under subsection (b), the payments of such pay would have been discontinued under subsection (d) upon such reemployment, the employee shall repay to the Department of Energy an amount equal to the amount of severance pay to which the employee was entitled under this section that would not have been paid to the employee under subsection (d) by reason of such reemployment.

(B) The period of service represented by an amount of severance pay repaid by an employee under subparagraph (A) shall be considered service for which severance pay has not been received by the employee under this section.

(C) Amounts repaid to the Department of Energy under this paragraph shall be credited to the appropriation available for the pay of employees of the agency for the fiscal year in which received. Amounts so credited shall be merged with, and shall be available for the same purposes and the same period as, the other funds in that appropriation.

(3) If an employee fails to repay to the Department of Energy an amount required to be repaid under paragraph (2)(A), that amount is recoverable from the employee as a debt due the United States.

(Added Pub. L. 90–83, § 1(34)(C), Sept. 11, 1967, 81 Stat. 201; amended Pub. L. 95–454, title IV, § 408(a)(3), Oct. 13, 1978, 92 Stat. 1173; Pub. L. 96–70, title I, § 1231(d), Sept. 27, 1979, 93 Stat. 470; Pub. L. 96–465, title II, § 2305, Oct. 17, 1980, 94 Stat. 2165; Pub. L. 100–325, § 2(i)(2), May 30, 1988, 102 Stat. 582; Pub. L. 101–474, § 5(k), Oct. 30, 1990, 104 Stat. 1100; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(9)(J)], Nov. 5, 1990, 104 Stat. 1427, 1442; Pub. L. 103–337, div. A, title III, § 343(a), Oct. 5, 1994, 108 Stat. 2721; Pub. L. 104–106, div. A, title X, § 1035, Feb. 10, 1996, 110 Stat. 430; Pub. L. 105–55, title III, § 310(a), Oct. 7, 1997, 111 Stat. 1199; Pub. L. 105–275, title III, §§ 308(a), 309(a), Oct. 21, 1998, 112 Stat. 2452, 2454; Pub. L. 106–31, title V, § 5006, May 21, 1999, 113 Stat. 112; Pub. L. 106–65, div. A, title XI, § 1104(a), div. C, title XXXII, § 3243, Oct. 5, 1999, 113 Stat. 777, 965; Pub. L. 107–314, div. A, title XI, § 1102(a), Dec. 2, 2002, 116 Stat. 2660; Pub. L. 109–163, div. A, title XI, § 1103, Jan. 6, 2006, 119 Stat. 3448; Pub. L. 109–241, title IX, § 902(a)(3), July 11, 2006, 120 Stat. 566; Pub. L. 110–417, [div. A], title XI, § 1104, Oct. 14, 2008, 122 Stat. 4617.)

HISTORICAL AND REVISION NOTES

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5595	5 App.: 1117.	Oct. 29, 1965, Pub. L. 89–301, § 9, 79 Stat. 1118. Nov. 2, 1966, Pub. L. 89–737, § 2, 80 Stat. 1164.

In subsection (a), subsections (a) and (b) of 5 App. U.S.C. 1117 are restated as definitions.

In subsection (a)(1)(A), the term ''Executive agency'' is substituted for ''the executive branch of the Government of the United States, including each corporation wholly owned or controlled by the United States'' and ''the General Accounting Office'' to conform to the definition in 5 U.S.C. 105.

The definition in subsection (a)(2) continues the application of the section to only civilian officers and employees, and does not encompass members of the uniformed services as they are not ''employed'' in or under an agency. Throughout the section, the word ''officer'', in the phrase ''officer or employee'', is omitted as included within ''employee''. The last 40 words of 5 App. U.S.C. 1117(a) are codified in subsection (g).

In subsection (a)(2)(i), the words ''Executive Schedule'' are substituted for ''Federal Executive Salary Schedule'' to reflect the provisions of 5 U.S.C. 5311. The words ''of the General Schedule of the Classification Act of 1949, as amended'' are omitted as unnecessary.

In subsection (a)(2)(ii), the words ''without a break in service of more than 3 days'' are coextensive with and substituted for ''without a break in service or after a separation of three days or less''.

In subsection (a)(2)(iv), the words ''subchapter III of chapter 83 of this title'' are substituted for ''the Civil Service Retirement Act, as amended'' to reflect the codification of the act in title 5 U.S.C. The words ''employees as defined by section 2105 of this title'' are coextensive with and substituted for ''Federal officers and employees''.

In subsection (a)(2)(v), the words ''subchapter I of chapter 81 of this title'' are substituted for ''the Federal Employees' Compensation Act, as amended'' to reflect the codification of the act in title 5, U.S.C.

In subsection (b) the word ''agency'' is substituted for ''department, independent establishment, corporation, or other governmental unit'' to conform to the definition in subsection (a)(1). Subsection (b)(1) is substituted for 5 App. U.S.C. 1117(e).

In subsection (e), the words ''section 5582(b) of this title'' are substituted for ''the first section of the Act of August 3, 1950 (5 U.S.C. 61f)'' to reflect the codification of the section in title 5, United States Code.

REFERENCES IN TEXT

The Executive Schedule, referred to in subsec. (a)(2)(i), is set out in section 5311 et seq. of this title.

Section 3(a) of the Panama Canal Act of 1979, referred to in subsec. (a)(2)(iii), is classified to section 3602(a) of Title 22, Foreign Relations and Intercourse.

Section 609(b)(1) of the Foreign Service Act of 1980, referred to in subsec. (a)(2)(vi), is classified to section 4009(b)(1) of Title 22.

AMENDMENTS

2008—Subsec. (i)(4). Pub. L. 110–417 substituted ''2014'' for ''2010''.

2006—Subsec. (h)(5). Pub. L. 109–241 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

Subsec. (i)(4). Pub. L. 109–163 substituted ''2010'' for ''2006''.

2002—Subsec. (i)(4). Pub. L. 107–314 substituted ''2006'' for ''2003''.

1999—Subsec. (b). Pub. L. 106–31 substituted ''(a)(1)(C)'' for ''(a)(1)(G)'' in last sentence.

Subsec. (i)(4). Pub. L. 106–65, § 1104(a), substituted ''February 10, 1996, and before October 1, 2003'' for ''the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996 and before October 1, 1999''.

Subsec. (j). Pub. L. 106–65, § 3243, added subsec. (j).

1998—Subsec. (a)(1)(F). Pub. L. 105–275, § 308(a)(1), struck out '', but only with respect to the United States Senate Restaurants'' after ''Capitol''.

Subsec. (a)(2)(viii). Pub. L. 105–275, §§ 308(a)(2), 309(a)(1)(A), struck out ''of the United States Senate

Restaurants'' after ''an employee'' and ''or'' after the semicolon.

Subsec. (a)(2)(ix), (x). Pub. L. 105–275, § 309(a)(1)(B), added cl. (ix) and redesignated former cl. (ix) as (x).

Subsec. (b). Pub. L. 105–275, § 309(a)(2), inserted at end ''The Public Printer may prescribe regulations to effect the application and operation of this section to the agency specified in subsection (a)(1)(G) of this section.''

1997—Subsec. (a)(1)(F). Pub. L. 105–55, § 310(a)(1), added subpar. (F).

Subsec. (a)(2)(viii), (ix). Pub. L. 105–55, § 310(a)(2), added cl. (viii) and redesignated former cl. (viii) as (ix).

Subsec. (b). Pub. L. 105–55, § 310(a)(3), inserted at end ''The Architect of the Capitol may prescribe regulations to effect the application and operation of this section to the agency specified in subsection (a)(1)(F) of this section.''

1996—Subsec. (i). Pub. L. 104–106 added subsec. (i).

1994—Subsec. (h). Pub. L. 103–337 added subsec. (h).

1990—Subsec. (a)(1)(E). Pub. L. 101–474, § 5(k)(1), added subpar. (E).

Subsec. (a)(2)(i). Pub. L. 101–509 substituted ''employee (other'' for ''employee, other'', inserted ''or an employee whose pay is fixed under section 5376)'' before ''whose rate'', and substituted ''the Executive Schedule'' for ''GS–18''.

Subsec. (b). Pub. L. 101–474, § 5(k)(2), inserted at end ''However, the Director of the Administrative Office of the United States Courts may prescribe regulations to effect the application and operation of this section to the agencies specified in subsection (a)(1)(E) of this section.''

1988—Subsec. (a)(2)(i). Pub. L. 100–325 inserted reference to Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

1980—Subsec. (a)(2)(vi). Pub. L. 96–465 inserted ''benefits under section 609(b)(1) of the Foreign Service Act of 1980 or any'' after ''to receive''.

1979—Subsec. (a)(2)(iii). Pub. L. 96–70 substituted ''areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)'' for ''Canal Zone''.

1978—Subsec. (a)(2)(i). Pub. L. 95–454 inserted reference to a member of the Senior Executive Service.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 3243 of Pub. L. 106–65 effective Mar. 1, 2000, see section 3299 of Pub. L. 106–65, set out as an Effective Date note under section 2401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 343(b) of Pub. L. 103–337 provided that: ''Subsection (h) of section 5595 of title 5, United States Code, as added by subsection (a), shall apply with respect to pay periods that begin on or after the date of the enactment of this Act [Oct. 5, 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 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

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 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95–454, see section 415 of Pub. L. 95–454, set out as a note under section 3131 of this title.

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.

REPORT

Pub. L. 107–314, div. A, title XI, § 1102(b), Dec. 2, 2002, 116 Stat. 2660, required the President, not later than one year after Dec. 2, 2002, to submit to Committees of Congress a report on whether the authority under section 5595(i) of this title should be made permanent or expanded to be made Governmentwide.

§ 5596. Back pay due to unjustified personnel action

(a) For the purpose of this section, ''agency'' means—

(1) an Executive agency;

(2) the Administrative Office of the United States Courts, the Federal Judicial Center, and the courts named by section 610 of title 28;

(3) the Library of Congress;

(4) the Government Printing Office;

(5) the government of the District of Columbia;

(6) the Architect of the Capitol, including employees of the United States Senate Restaurants; and

(7) the United States Botanic Garden.

(b)(1) An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowances, or differentials of the employee—

(A) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect—

(i) an amount equal to all or any part of the pay, allowances, or differentials, as applicable which the employee normally would have earned or received during the period if the personnel action had not occurred, less any amounts earned by the employee through other employment during that period; and

(ii) reasonable attorney fees related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, or under chapter 11 of title I of the Foreign Service Act of 1980, shall be awarded in accordance with standards established under section 7701(g) of this title; and

(B) for all purposes, is deemed to have performed service for the agency during that period, except that—

(i) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

(ii) annual leave credited under clause (i) of this subparagraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

(2)(A) An amount payable under paragraph (1)(A)(i) of this subsection shall be payable with interest.

(B) Such interest—

(i) shall be computed for the period beginning on the effective date of the withdrawal or reduction involved and ending on a date not more than 30 days before the date on which payment is made;

(ii) shall be computed at the rate or rates in effect under section 6621(a)(1) of the Internal Revenue Code of 1986 during the period described in clause (i); and

(iii) shall be compounded daily.

(C) Interest under this paragraph shall be paid out of amounts available for payments under paragraph (1) of this subsection.

(3) This subsection does not apply to any reclassification action nor authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

(4) The pay, allowances, or differentials granted under this section for the period for which an unjustified or unwarranted personnel action was in effect shall not exceed that authorized by the applicable law, rule, regulations, or collective bargaining agreement under which the unjustified or unwarranted personnel action is found, except that in no case may pay, allowances, or differentials be granted under this section for a period beginning more than 6 years before the date of the filing of a timely appeal or, absent such filing, the date of the administrative determination.

(5) For the purpose of this subsection, ''grievance'' and ''collective bargaining agreement'' have the meanings set forth in section 7103 of this title and (with respect to members of the Foreign Service) in sections 1101 and 1002 of the Foreign Service Act of 1980, ''unfair labor practice'' means an unfair labor practice described in section 7116 of this title and (with respect to members of the Foreign Service) in section 1015 of the Foreign Service Act of 1980, and ''personnel action'' includes the omission or failure to take an action or confer a benefit.

(c) The Office of Personnel Management shall prescribe regulations to carry out this section. However, the regulations are not applicable to the Tennessee Valley Authority and its employees, or to the agencies specified in subsection (a)(2) of this section.

(Added Pub. L. 90–83, § 1(34)(C), Sept. 11, 1967, 81 Stat. 203; amended Pub. L. 94–172, § 1(a), Dec. 23, 1975, 89 Stat. 1025; Pub. L. 95–454, title VII, § 702, Oct. 13, 1978, 92 Stat. 1216; Pub. L. 96–54, § 2(a)(14), Aug. 14, 1979, 93 Stat. 382; Pub. L. 96–465, title II, § 2306, Oct. 17, 1980, 94 Stat. 2165; Pub. L. 100–202, § 101(m) [title VI, § 623(a)], Dec. 22, 1987, 101 Stat. 1329–390, 1329–428; Pub. L. 101–474, § 5(*l*), Oct. 30, 1990, 104 Stat. 1100; Pub. L. 105–261, div. A, title XI, § 1104(a), Oct. 17, 1998, 112 Stat. 2141; Pub. L. 107–68, title III, § 309, Nov. 12, 2001, 115 Stat. 592.)

HISTORICAL AND REVISION NOTES

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5596(a)	5 App.: 652a.	Mar. 30, 1966, Pub. L. 89–380, §§ 2–4, 80 Stat. 94, 95.
5596(b)	5 App.: 652b.	
5596(c)	5 App.: 652c.	

In subsection (a)(1), the term ''an Executive agency'' is substituted for ''executive department of the Government of the United States'', ''agency or independent establishment in the executive branch of such Government'', ''corporation owned or controlled by such Government'', and ''the General Accounting Office'' to conform to the definition in 5 U.S.C. 105.

In subsection (b), the word ''employee'' is substituted for ''civilian officer or employee'' and ''such officer or employee'' to conform to the definition in 5 U.S.C. 2105. The words ''on or after the date of enactment of this Act'' and ''taken prior to, on, or after the date of enactment of his Act'' are omitted as executed and unnecessary, since title 5 is restated prospectively and as any existing rights are preserved by section 7 of this bill.

In subsection (c), the word ''employees'' is substituted for ''officers and employees'' to conform to the definition in 5 U.S.C. 2105.

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (b)(1)(A)(ii), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071. Chapter 11 of title I of the Act is classified generally to subchapter XI (§ 4131 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

Section 6621(a)(1) of the Internal Revenue Code of 1986, referred to in subsec. (b)(2)(B)(ii), is classified to section 6621(a)(1) of Title 26, Internal Revenue Code.

Sections 1101, 1002, and 1015 of the Foreign Service Act of 1980, referred to in subsec. (b)(5), are classified to sections 4131, 4102, and 4115, respectively, of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2001—Subsec. (a)(6), (7). Pub. L. 107–68 added pars. (6) and (7).

1998—Subsec. (b)(4), (5). Pub. L. 105–261 added par. (4) and redesignated former par. (4) as (5).

1990—Subsec. (a)(2). Pub. L. 101–474, § 5(*l*)(1), substituted ''Courts, the Federal Judicial Center, and the courts named by section 610 of title 28'' for ''Courts''.

Subsec. (c). Pub. L. 101–474, § 5(*l*)(2), substituted ''employees, or to the agencies specified in subsection (a)(2) of this section'' for ''employees''.

1987—Subsec. (b)(2) to (4). Pub. L. 100–202 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1980—Subsec. (b)(1). Pub. L. 96–465, § 2306(1), inserted in subpar. (A)(ii) ''or under chapter 11 of title I of the Foreign Service Act of 1980'' after ''chapter 71 of this title,''.

Subsec. (b)(3). Pub. L. 96–465, § 2306(2), inserted ''and (with respect to members of the Foreign Service) in sections 1101 and 1002 of the Foreign Service Act of 1980'' after ''section 7103 of this title'', and ''and (with respect to members of the Foreign Service) in section 1015 of the Foreign Service Act of 1980'' after ''section 7116 of this title''.

1979—Subsec. (c). Pub. L. 96–54 substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

1978—Subsec. (b). Pub. L. 95–454 substituted provisions relating to corrective measures applicable to an employee who, on the basis of a timely appeal or an administrative determination, including a decision relative to an unfair labor practice or grievance, is found by an appropriate authority under applicable law, rule, regulation, or collective bargaining agreement to have been affected by an unjustified or unwarranted personnel action, for provisions relating to corrective measures applicable to an employee who, on the basis of an administrative determination or a timely appeal, is found by an appropriate authority under applicable law or regulation to have undergone an unjustified or unwarranted personnel action.

1975—Subsec. (b)(2). Pub. L. 94–172 struck out in introductory clause provision relating to prohibition on leave credit cumulated in excess of maximum allowed under law or regulations, and added subpars. (A) and (B).

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–68, title III, § 309, Nov. 12, 2001, 115 Stat. 592, provided that the amendment made by section 309 is effective for all personnel actions taken on or after Nov. 12, 2001.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 101(m) [title VI, § 623(b)] of Pub. L. 100–202 provided that:

''(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 22, 1987], and shall apply with respect to any employee found, in a final judgment entered or a final decision otherwise rendered on or after such date, to have been the subject of an unjustified or unwarranted personnel action, the correction of which entitles such employee to an amount under section 5596(b)(1)(A)(i) of title 5, United States Code.

''(2) EXCEPTION.—

''(A) CASES IN WHICH A RIGHT TO INTEREST WAS RESERVED.—The amendments made by subsection (a) [amending this section] shall also apply with respect to any claim which was brought under section 5596 of title 5, United States Code, and with respect to which a final judgment was entered or a final decision was otherwise rendered before the date of the enactment of this Act [Dec. 22, 1987], if, under terms of such judgment or decision, a right to interest was specifically reserved, contingent on the enactment of a statute authorizing the payment of interest on claims brought under such section 5596.

''(B) METHOD OF COMPUTING INTEREST.—The amount of interest payable under this paragraph with respect to a claim shall be determined in accordance with section 5596(b)(2)(B) of title 5, United States Code (as amended by this section).

''(C) SOURCE.—An amount payable under this paragraph shall be paid from the appropriation made by section 1304 of title 31, United States Code, notwithstanding section 5596(b)(2)(C) of title 5, United States Code (as amended by this section) or any other provision of law.

''(D) DEADLINE.—An application for a payment under this paragraph shall be ineffective if it is filed after the end of the 1-year period beginning on the date of the enactment of this Act [Dec. 22, 1987].

''(E) LIMITATION ON PAYMENTS.—Payments under this paragraph may not be made before October 1, 1988, except that interest shall continue to accrue in accordance with [section] 5596(b)(2)(B) of title 5, United States Code.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–54 effective July 12, 1979, see section 2(b) of Pub. L. 96–54, set out as a note under section 305 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 an Effective Date note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 1(b) of Pub. L. 94–172 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to any employee found, on or after March 30, 1966, to have undergone an unjustified or unwarranted personnel action the correction of which entitled or entitles such employee to the benefits provided under section 5596 of title 5, United States Code.''

LUMP-SUM PAYMENTS FOR FORMER EMPLOYEES NOT ON THE ROLLS ON DECEMBER 23, 1975

Section 2 of Pub. L. 94–172 provided that: ''With respect to former employee (except a former employee referred to in section 3 of this Act) [set out as a note below] who is not on the rolls on the date of the enactment of this Act [Dec. 23, 1975], annual leave, which was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to the employee's credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of the enactment of this Act with the agency by which the employee was employed when the lump-sum payment provisions of section 5551 of title 5, United States Code, last became applicable to such employee. Payment shall be by that agency at the salary rate in effect on the date the lump-sum payment provisions became applicable.''

LUMP-SUM PAYMENTS FOR POSTAL EMPLOYEES NOT ON THE ROLLS ON DECEMBER 23, 1975

Section 3 of Pub. L. 94–172 provided that:

''(a) With respect to a former employee of the Post Office Department or a former employee of the United States Postal Service who had prior civilian service with the Post Office Department or other Federal agency, who is not on the rolls on the date of the enactment of this Act [Dec. 23, 1975], annual leave which was accrued before July 1, 1971, but was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to his credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and, liquidation by lump-sum payment only if a claim therefor is filed within 3 years immediately following the date of enactment of this Act with the Postal Service. Payment shall be by the Postal Service at the salary rate in effect on the date the lump-sum payment provisions of section 5551 of title 5, United States Code, or comparable provisions of regulations of the Postal Service, as appropriate, last became applicable to the former employee.

''(b) With respect to a present employee of the Postal Service who had prior Federal civilian service with the Post Office Department or other Federal agency, annual leave which was accrued before July 1, 1971, but was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to the employee's credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed with the Postal Service within three years immediately following the date of

the enactment of this Act [Dec. 23, 1975]. Payment shall be by the Postal Service at the salary rate in effect on the date of the enactment of this Act.''

§ 5597. Separation pay

(a) For the purpose of this section—

(1) the term ''Secretary'' means the Secretary of Defense;

(2) the term ''defense agency'' means an agency of the Department of Defense, as further defined under regulations prescribed by the Secretary; and

(3) the term ''employee'' means an employee of a defense agency, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months, except that such term does not include—

(A) a reemployed annuitant under subchapter III of chapter 83, chapter 84, or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

(b) In order to avoid or minimize the need for involuntary separations due to a reduction in force, base closure, reorganization, transfer of function, workforce restructuring (to meet mission needs, achieve one or more strength reductions, correct skill imbalances, or reduce the number of high-grade, managerial, or supervisory positions), or other similar action affecting 1 or more defense agencies, the Secretary shall establish a program under which separation pay may be offered to encourage eligible employees to separate from service voluntarily (whether by retirement or resignation).

(c) Under the program, separation pay may be offered by a defense agency only—

(1) with the prior consent, or on the authority, of the Secretary; and

(2) to employees within such occupational groups or geographic locations, or subject to such other similar objective and nonpersonal limitations or conditions, as the Secretary may require.

A determination of which employees are within the scope of an offer of separation pay shall be made only on the basis of consistent and well-documented application of the relevant criteria.

(d) Such separation pay—

(1) shall be paid in a lump-sum or in installments;

(2) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section; or

(B) $25,000;

(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

(4) shall not be taken into account for purposes of determining the amount of any severance pay to which an individual may be entitled under section 5595 based on any other separation; and

(5) if paid in installments, shall cease to be paid upon the recipient's acceptance of employment by the Federal Government, or commencement of work under a personal services contract, as described in subsection (g)(1).

(e) No amount shall be payable under this section based on any separation occurring after September 30, 2003.

(f) The Secretary shall prescribe such regulations as may be necessary to carry out this section.

(g)(1) An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 and accepts employment with the Government of the United States, or who commences work for an agency of the United States through a personal services contract with the United States, within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the defense agency that paid the separation pay.

(2) If the employment is with an Executive agency, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(4) If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(5) If the employment is without compensation, the appointing official may waive the repayment.

(h)(1)(A) In addition to any other payment that it is required to make under subchapter III of chapter 83 or chapter 84, the Department of Defense shall remit to the Office of Personnel Management an amount equal to 15 percent of the final basic pay of each covered employee.

(B) If the employee is one with respect to whom a remittance would otherwise be required under section 4(a) of the Federal Workforce Restructuring Act of 1994 based on the separation involved, the remittance under this subsection shall be instead of the remittance otherwise required under such section 4(a).

(2) Amounts remitted under paragraph (1) shall be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

(3) For the purposes of this subsection—

(A) the term ''covered employee'' means an employee who is subject to subchapter III of chapter 83 or chapter 84 and to whom a voluntary separation incentive has been paid under this section on the basis of a separation occurring on or after October 1, 1997; and

(B) the term ''final basic pay'' has the meaning given such term in section 4(a)(2) of the Federal Workforce Restructuring Act of 1994.

(i)(1) Notwithstanding any other provision of this section, during fiscal year 2001, separation pay may be offered under the program carried out under this section with respect to workforce restructuring only to persons who, upon separation, are entitled to an immediate annuity under section 8336, 8412, or 8414 of this title and are otherwise eligible for the separation pay under this section.

(2) In the administration of the program under this section during fiscal year 2001, the Secretary shall ensure that not more than 1,000 employees are, as a result of workforce restructuring, separated from service in that fiscal year entitled to separation pay under this section.

(3) Separation pay may not be offered as a result of workforce restructuring under the program carried out under this section after fiscal year 2003.

(Added Pub. L. 102–484, div. D, title XLIV, § 4436(a)(1), Oct. 23, 1992, 106 Stat. 2723; amended Pub. L. 103–226, § 8(a), Mar. 30, 1994, 108 Stat. 118; Pub. L. 103–337, div. A, title III, § 341(b)(1), Oct. 5, 1994, 108 Stat. 2720; Pub. L. 104–201, div. A, title XVI, § 1612(a), Sept. 23, 1996, 110 Stat. 2739; Pub. L. 105–85, div. A, title XI, § 1106(a), (b)(1), Nov. 18, 1997, 111 Stat. 1923, 1924; Pub. L. 106–65, div. A, title XI, § 1104(b), Oct. 5, 1999, 113 Stat. 777; Pub. L. 106–398, § 1 [[div. A], title XI, §§ 1151, 1153(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–319, 1654A–323.)

REFERENCES IN TEXT

The date of the enactment of the Federal Workforce Restructuring Act of 1994, referred to in subsec. (g)(1), is the date of enactment of Pub. L. 103–226, which was approved Mar. 30, 1994.

Section 4(a) of the Federal Workforce Restructuring Act of 1994, referred to in subsec. (h)(1)(B), (3)(B), is section 4(a) of Pub. L. 103–226, as amended, which is set out as a note under section 8331 of this title.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–398, § 1 [[div. A], title XI, § 1151(a)], inserted ''workforce restructuring (to meet mission needs, achieve one or more strength reductions, correct skill imbalances, or reduce the number of high-grade, managerial, or supervisory positions),'' after ''transfer of function,''.

Subsec. (c). Pub. L. 106–398, § 1 [[div. A], title XI, § 1151(b)(2)], inserted concluding provisions.

Subsec. (c)(2). Pub. L. 106–398, § 1 [[div. A], title XI, § 1151(b)(1)], inserted ''objective and nonpersonal'' after ''similar''.

Subsec. (d)(1). Pub. L. 106–398, § 1 [[div. A], title XI, § 1151(c)(1)], added par. (1) and struck out former par. (1) which read as follows: ''shall be paid in a lump sum;''.

Subsec. (d)(5). Pub. L. 106–398, § 1 [[div. A], title XI, § 1151(c)(2)–(4)], added par. (5).

Subsec. (g)(1). Pub. L. 106–398, § 1 [[div. A], title XI, § 1151(d)], inserted '', or who commences work for an agency of the United States through a personal services contract with the United States,'' after ''employment with the Government of the United States''.

Subsec. (i). Pub. L. 106–398, § 1 [[div. A], title XI, § 1153(a)], added subsec. (i).

1999—Subsec. (e). Pub. L. 106–65 substituted ''September 30, 2003'' for ''September 30, 2001''.

1997—Subsec. (e). Pub. L. 105–85, § 1106(b)(1), substituted ''September 30, 2001'' for ''September 30, 1999''.

Subsec. (h). Pub. L. 105–85, § 1106(a), added subsec. (h).

1996—Subsec. (g)(5). Pub. L. 104–201 added par. (5).

1994—Subsec. (e). Pub. L. 103–337 substituted ''September 30, 1999'' for ''September 30, 1997''.

Subsec. (g). Pub. L. 103–226 added subsec. (g).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1612(b) of Pub. L. 104–201 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to employment accepted on or after the date of the enactment of this Act [Sept. 23, 1996].''

LIMITATIONS FOR FISCAL YEARS 2002 AND 2003 ON VSIP AND VERA

Pub. L. 106–398, § 1 [[div. A], title XI, § 1153(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–323, as amended by Pub. L. 107–107, div. A, title XI, § 1133(a), Dec. 28, 2001, 115 Stat. 1244, provided that:

''The Secretary of Defense shall ensure that, in fiscal year 2002 not more than 2000 employees of the Department of Defense are, and in fiscal year 2003 not more than 6000 employees of the Department of Defense are, as a result of workforce restructuring, separated from service entitled to one or more of the following benefits:

''(1) Voluntary separation incentive pay under section 5597 of title 5, United States Code.

''(2) Immediate annuity under section 8336(*o*) or 8414(d) of such title.''

[Pub. L. 107–107, div. A, title XI, § 1133(b), Dec. 28, 2001, 115 Stat. 1244, provided that: ''The amendments made by subsection (a) [amending Pub. L. 106–398, § 1 [[div. A], title XI, § 1153(b)], set out above] may be superceded by another provision of law that takes effect after the date of the enactment of this Act [Dec. 28, 2001], and before October 1, 2003, establishing a uniform system of providing voluntary separation incentives (including a system for requiring approval of plans by the Office of Management and Budget) for employees of the Federal Government.'']

VOLUNTARY SEPARATION INCENTIVES

Pub. L. 106–303, § 2, Oct. 13, 2000, 114 Stat. 1064, as amended by Pub. L. 108–271, §§ 2(a), (b)(2), (c), 8(b), July 7, 2004, 118 Stat. 811, 814, provided that:

''(a) IN GENERAL.—Effective October 13, 2000, the authority to provide voluntary separation incentive payments shall be available to the Comptroller General with respect to employees of the Government Accountability Office.

''(b) TERMS AND CONDITIONS.—The authority to provide voluntary separation incentive payments under this section shall be available in accordance with the provisions of subsections (a)(2)–(e) of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in Public Law 104–208 (5 U.S.C. 5597 note), except that—

''(1) subsection (a)(2)(D) of such section shall be disregarded;

''(2) subsection (a)(2)(G) of such section shall be applied—

''(A) by construing the citations therein to be references to the appropriate authorities in connection with employees of the Government Accountability Office; and

''(B) by deeming such subsection to be amended by striking 'Code.' and inserting 'Code, or who, during the thirty-six month period preceding the date of separation, performed service for which a student loan repayment benefit was or is to be paid under section 5379 of title 5, United States Code.'

''(3) subsection (b)(1) of such section shall be applied by substituting 'Committee on Government Reform' [now Committee on Oversight and Government Reform] for 'Committee on Government Reform and Oversight';

''(4) (A) subsection (b)(2)(A) of such section shall be applied by substituting 'eliminated (if any)' for 'eliminated';

''(B) subsection (b)(2)(C) of such section shall be applied by substituting 'such positions or functions as

are to be eliminated and such employees as are to be separated' for 'the eliminated positions and functions'; and

''(C) the agency strategic plan referred to in subsection (b) of such section shall, in addition to the information described in paragraph (2) thereof, contain the following: the steps to be taken to realign the Government Accountability Office's workforce in order to meet budgetary constraints or mission needs, correct skill imbalances, or reduce high-grade, managerial, or supervisory positions;

''(5) subsection (c)(1) of such section shall be applied by substituting 'to the extent necessary (A) to realign the Government Accountability Office's workforce in order to meet budgetary constraints or mission needs, (B) to correct skill imbalances, or (C) to reduce high-grade, managerial, or supervisory positions, in conformance with that agency's strategic plan (as referred to in subsection (b)).' for the matter following 'only';

''(6) subsection (c)(2)(D) of such section shall be applied by substituting 'December 31, 2003, or the end of the 3-month period beginning on the date on which such payment is offered to such employee, whichever is earlier' for 'December 31, 1997'; and

''(7) instead of the amount described in paragraph (1) of subsection (d) of such section, the amount required under such paragraph shall be determined in accordance with subsection (c)(1) of this section.

''(c) ADDITIONAL CONTRIBUTION TO RETIREMENT FUND.—

''(1) Determination of amount required.—The amount required under this paragraph shall be the amount determined under subparagraph (A) or (B), whichever is greater, for the fiscal year involved.

''(A) FIRST METHOD.—The amount required under this subparagraph shall be determined as follows:

''(i) First, determine the sum of the following:

''(I) The amount equal to 19 percent of the final basic pay of each employee described in paragraph (2) who takes early retirement under section 8336(d) of title 5, United States Code.

''(II) The amount equal to 58 percent of the final basic pay of each employee described in paragraph (2) who retires on an immediate annuity under section 8336 of such title 5 (not including any employee covered by subclause (I)).

''(ii) Second, reduce the sum of the amounts determined under clause (i) by the sum of the following (but not below zero):

''(I) The amount equal to 419 percent of the final basic pay of each employee described in paragraph (2), who is covered by subchapter III of chapter 83 of title 5, United States Code, and who resigns.

''(II) The amount equal to 17 percent of the final basic pay of each employee described in paragraph (2) who takes early retirement under section 8414(b) of such title 5.

''(III) The amount equal to 8 percent of the final basic pay of each employee described in paragraph (2) who retires on an immediate annuity under section 8412 of such title 5.

''(IV) The amount equal to 211 percent of the final basic pay of each employee described in paragraph (2), who is covered by chapter 84 of such title 5, and who resigns.

''(B) SECOND METHOD.—The amount required under this subparagraph shall be equal to 45 percent of the final basic pay of each employee described in paragraph (2).

''(2) COMPUTATIONS TO BE BASED ON SEPARATIONS OCCURRING IN THE FISCAL YEAR INVOLVED.—The employees described in this paragraph are those employees who receive a voluntary separation incentive payment under this section based on their separating from service during the fiscal year involved.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Office of Personnel Management shall prescribe any regulations necessary to carry out this subsection, including provisions under which any additional contribution determined under this subsection shall, at the election of the Government Accountability Office, be payable either in a lump sum or through installment payments made over a period of not to exceed 3 years.

''(B) INTEREST.—The regulations shall include provisions under which, if the installment method is chosen, interest shall be payable at the same rate as provided for under section 8348(f) of title 5, United States Code.

''(4) RULE OF CONSTRUCTION.—As used in this subsection, the term 'resign' shall not be considered to include early retirement or a separation giving rise to an immediate annuity.

''(d) DEFINITIONS.—

''(1) FINAL BASIC PAY.—As used in this section, the term 'final basic pay' has the same meaning as under section 663(d)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in Public Law 104–208 (5 U.S.C. 5597 note).

''(2) EMPLOYEE.—As used in this section and, for purposes of this section, the provisions of law cited in subsection (b), the term 'employee' shall be considered to refer to an officer or employee of the Government Accountability Office.

''(e) NUMERICAL LIMITATION.—Not to exceed 5 percent of the Government Accountability Office's workforce (as of the start of a fiscal year) shall be permitted to receive a voluntary separation incentive payment under this section based on their separating from service in such fiscal year.

''(f) REGULATIONS.—The Comptroller General shall prescribe any regulations necessary to carry out this section, excluding subsection (c). Such regulations shall include provisions under which a voluntary separation incentive payment may be offered to any employee or group of employees based on—

''(1) geographic area, organizational unit, or occupational series or level;

''(2) skills, knowledge, or performance; or

''(3) such other similar factors (or combination of factors described in this or any other paragraph of this subsection) as the Comptroller General considers necessary and appropriate in order to achieve the purpose involved.

''(g) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Government Accountability Office workforce and not downsize the Government Accountability Office workforce.''

Pub. L. 106–117, title XI, Nov. 30, 1999, 113 Stat. 1595, as amended by Pub. L. 106–419, title II, § 207, Nov. 1, 2000, 114 Stat. 1842, known as the ''Department of Veterans Affairs Employment Reduction Assistance Act of 1999'', authorized the Secretary of Veterans Affairs to submit a plan to the Director of the Office of Management and Budget for the payment of voluntary separation incentive payments, and upon approval thereof to pay voluntary separation incentive payments to eligible employees of the Department of Veterans Affairs only to the extent necessary to reduce or restructure the positions and functions identified by the plan, provided that the employees separate from service with the Department through Dec. 31, 2002, whether by retirement or resignation, defined ''employee'' for separation incentive purposes, and provided for additional contributions to the Retirement Fund, effect of subsequent employment with the Federal Government, and effect on agency employment levels.

Pub. L. 106–113, div. B, § 1000(a)(2) [title V, § 579], Nov. 29, 1999, 113 Stat. 1535, 1501A–113, as amended by Pub. L. 106–429, § 101(a) [title V, § 584], Nov. 6, 2000, 114 Stat. 1900, 1900A–56; Pub. L. 107–115, title V, § 575, Jan. 10, 2002, 115 Stat. 2168; Pub. L. 108–7, div. E, title V, § 571, Feb. 20, 2003, 117 Stat. 208, authorized voluntary separation incentives for employees of the United States Agency for International Development who voluntarily separated (whether by retirement or resignation) on or before Jan. 1, 2003, and defined pertinent terms, provided for

the development of an agency strategic plan and the approval of such plan by the Director of the Office of Management and Budget, required additional agency contributions to the Retirement Fund, specified the effect of subsequent employment with the Federal Government, mandated a reduction of agency employment levels, and authorized the Office of Personnel Management to prescribe regulations to implement these provisions.

Pub. L. 106–58, title I, § 116, Sept. 29, 1999, 113 Stat. 439, authorized the Treasury Inspector General for Tax Administration, during the period from Oct. 1, 1999 through Jan. 1, 2003, to offer voluntary separation incentives in order to provide the necessary flexibility to carry out the plan to establish and reorganize the Office of the Treasury Inspector General for Tax Administration, defined ''employee'' for separation incentive purposes, and provided for authority to provide separation incentive payments, additional contributions to the Retirement Fund, effect of subsequent employment with the Federal Government, and effect on agency employment levels.

Pub. L. 106–58, title I, § 119, Sept. 29, 1999, 113 Stat. 441, authorized the Commissioner of the Financial Management Services of the Department of the Treasury, during the period from Oct. 1, 1999 through Jan. 31, 2000, to offer voluntary separation incentives in order to provide the necessary flexibility to carry out the closure of the Chicago Financial Center (CFC) in a manner which the Commissioner deemed most efficient, equitable to employees, and cost effective to the Government, defined ''employee'' for separation incentive purposes, and provided for an agency plan, authority to provide separation incentive payments, eligibility requirements, effect on subsequent employment with the Federal Government, contributions to the Retirement Fund, and reduction of agency employment levels.

Pub. L. 106–58, title IV, § 411, Sept. 29, 1999, 113 Stat. 456, as amended by Pub. L. 106–554, § 1(a)(3) [title IV, § 408], Dec. 21, 2000, 114 Stat. 2763, 2763A–146, authorized the Administrator of General Services, during the period Oct. 1, 1999 through Apr. 30, 2002, to offer a voluntary separation incentive in order to provide the necessary flexibility to carry out the closing of the Federal Supply Service distribution centers, forward supply points, and associated programs in a manner which the Administrator deemed most efficient, equitable to all employees, and cost effective for the Government, defined ''employee'' for separation incentive purposes, and provided for agency strategic plan, authority to provide incentive payments, eligibility requirements, effect of subsequent employment with the Federal Government, contributions to the Retirement Fund, and reduction of agency employment levels.

Pub. L. 105–206, title I, § 1202, July 22, 1998, 112 Stat. 719, authorized Commissioner of Internal Revenue to pay voluntary separation incentive payments to any qualifying employee of the Internal Revenue Service who voluntarily separated (whether by retirement or resignation) before Jan. 1, 2003, provided for pertinent definitions, additional Internal Revenue Service contributions to the Retirement Fund, effect of subsequent employment with the Government, and effect on Internal Revenue Service employment levels.

Pub. L. 104–208, div. A, title I, § 101(e) [title V, § 520], Sept. 30, 1996, 110 Stat. 3009–233, 3009–272, as amended by Pub. L. 105–78, title V, § 517, Nov. 13, 1997, 111 Stat. 1519; Pub. L. 106–113, div. B, § 1000(a)(4) [title V, § 515], Nov. 29, 1999, 113 Stat. 1535, 1501A–276, authorized Railroad Retirement Board and Office of Inspector General of Railroad Retirement Board to provide voluntary separation incentive payments to any qualifying employee who voluntarily separated (whether by retirement or resignation) before Mar. 31, 2000, directed the Railroad Retirement Board, prior to obligating any resources for voluntary separation incentive payments, to submit to Congress a strategic plan outlining intended use of such incentive payments and a proposed organizational chart for agency once such incentive payments have been completed, and further provided for pertinent definitions, additional contributions to the Retirement Fund, effect of subsequent employment with the Government, reduction of agency employment levels, and that program would take effect Oct. 1, 1996.

Pub. L. 106–65, div. C, title XXXI, § 3161, Oct. 5, 1999, 113 Stat. 942, as amended by Pub. L. 107–107, div. C, title XXXI, § 3153(a), Dec. 28, 2001, 115 Stat. 1377, provided that notwithstanding section 101(f) [title VI, § 663(c)(2)(D)] of Public Law 104–208, set out below, Department of Energy could pay voluntary separation incentive payments under such section 663 to qualifying employees who voluntarily separated (whether by retirement or resignation) before Jan. 1, 2004, and that not later than Mar. 15, 2000, Secretary of Energy was to submit to Director of Office of Personnel Management and Congress a report describing how the Department has paid voluntary separation payments under such section 663.

[Pub. L. 107–107, div. C, title XXXI, § 3153(b), Dec. 28, 2001, 115 Stat. 1377, provided that: ''The amendment made by subsection (a) [amending section 3161 of Pub. L. 106–65, set out above] may be superseded by another provision of law that takes effect after the date of the enactment of this Act [Dec. 28, 2001], and before January 1, 2004, establishing a uniform system for providing voluntary separation incentives (including a system for requiring approval of plans by the Office of Management and Budget) for employees of the Federal Government.'']

Pub. L. 105–261, div. C, title XXXI, § 3156, Oct. 17, 1998, 112 Stat. 2257, provided that notwithstanding section 101(f) [title VI, § 663(c)(2)(D)] of Public Law 104–208, set out below, Department of Energy could pay voluntary separation incentive payments to qualifying employees who voluntarily separated (whether by retirement or resignation) before Jan. 1, 2001.

Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 663], Sept. 30, 1996, 110 Stat. 3009–314, 3009–383, provided that:

''(a) DEFINITIONS.—For the purposes of this section—

''(1) the term 'agency' means any Executive agency (as defined in section 105 of title 5, United States Code), other than an Executive agency (except an agency receiving such authority in the Department of Transportation Appropriations Act, 1997 [probably means the Department of Transportation and Related Agencies Appropriations Act, 1997, Pub. L. 104–205, see Tables for classification]) that is authorized by any other provision of this Act or any other Act to provide voluntary separation incentive payments during all, or any part of, fiscal year 1997; and

''(2) the term 'employee' means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

''(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

''(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

''(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

''(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 ([Pub. L. 103–226] 5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

''(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

''(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

''(G) any employee who, during the twenty four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

''(b) AGENCY STRATEGIC PLAN.—

''(1) IN GENERAL.—The head of each agency, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Committee on Government Reform and Oversight [now Committee on Oversight and Government Reform] of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

''(2) CONTENTS.—The agency's plan shall include—

''(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

''(B) the number and amounts of voluntary separation incentive payments to be offered; and

''(C) a description of how the agency will operate without the eliminated positions and functions.

''(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

''(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

''(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

''(A) shall be paid in a lump sum after the employee's separation;

''(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

''(C) shall be equal to the lesser of—

''(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

''(ii) an amount determined by the agency head not to exceed $25,000;

''(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before December 31, 1997;

''(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

''(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

''(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

''(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

''(2) DEFINITION.—For the purpose of paragraph (I), the term 'final basic pay', with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

''(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

''(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

''(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

''(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

''(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.''

Pub. L. 104–205, title III, § 349, Sept. 30, 1996, 110 Stat. 2976, authorized certain agencies of Department of Transportation to provide voluntary separation incentive payments to any qualifying employee, provided that no amount would be payable based on any separation occurring before Sept. 30, 1996, or after Sept. 30, 1997, directed agencies to submit to Congress a strategic plan outlining intended use of such incentive payments and proposed organization chart for agency once such incentive payments have been completed, and further provided for definitions, additional agency contributions to the Retirement Fund, effect of subsequent employment with the Government, reductions of agency employment levels, and that program would take effect Oct. 1, 1996.

Pub. L. 104–204, title IV, § 432, Sept. 26, 1996, 110 Stat. 2931, as amended by Pub. L. 106–377, § 1(a)(1) [title IV, § 428], Oct. 27, 2000, 114 Stat. 1441, 1441A–56, known as the ''National Aeronautics and Space Administration Federal Employment Reduction Assistance Act of 1996'', authorized the Administrator of the National Aeronautics and Space Administration (NASA), in order to avoid or minimize the need for involuntary separations due to a reduction in force, installation closure, reorganization, transfer of function, or other similar action affecting NASA, to establish a program under which voluntary separation pay, subject to the availability of appropriated funds, be offered to encourage eligible employees to separate from service by retirement or resignation up to Sept. 30, 2002, defined terms, provided for effect of subsequent employment with the Federal Government, required additional agency contributions to the Retirement Fund, reduced agency employment levels, and required an annual report on the program to be submitted to the Office of Personnel Management.

Pub. L. 104–190, § 1, Aug. 20, 1996, 110 Stat. 1932, authorized Agency for International Development to provide voluntary separation incentive payments to not more than 100 qualified employees of such agency who voluntarily separated (whether by retirement or resignation) before Feb. 1, 1997, and only to extent necessary to eliminate positions and functions identified by strategic plan to be submitted to Congress outlining intended use of such incentive payments and proposed organizational chart for agency once such incentive payments have been completed, and further provided for definitions, amount and treatment of payments, additional agency contributions to the Retirement Fund, effect of subsequent employment with the Government, and reduction of agency employment levels.

Pub. L. 104–180, title VII, § 735, Aug. 6, 1996, 110 Stat. 1604, authorized Department of Agriculture to provide

voluntary separation incentive payments to qualified employees to extent necessary to eliminate positions and functions identified by strategic plan to be submitted to Congress outlining intended use of such incentive payments and proposed organizational chart for agency once such incentive payments have been completed, provided that no amount would be payable based on any separation occurring before Aug. 6, 1996, or after Sept. 30, 2000, and further provided for definitions, amount and treatment of payments, additional agency contributions to the Retirement Fund, effect of subsequent employment with the Government, reduction of agency employment levels, and that program would take effect Oct. 1, 1996.

Pub. L. 104–134, title I, § 101(c) [title III, § 339], Apr. 26, 1996, 110 Stat. 1321–156, 1321–210; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided that, in order to avoid or minimize need for involuntary separations due to reduction in force, reorganization, transfer of function, or other similar action, Secretary of the Smithsonian Institution could pay, or authorize payment of, voluntary separation incentive payments to Smithsonian Institution employees who separated from Federal service voluntarily through Oct. 1, 1996 (whether by retirement or resignation).

Pub. L. 104–19, title I, § 702, July 27, 1995, 109 Stat. 221, provided that General Accounting Office could for such employees as it deemed appropriate authorize payment to employees who voluntarily separated before Oct. 1, 1995, whether by retirement or resignation, which payment would be paid in accordance with provisions of subsection (d) of this section.

Section 3 of Pub. L. 103–226 authorized Executive agencies (other than Department of Defense, Central Intelligence Agency, or General Accounting Office) to provide voluntary separation incentive payments to qualified employees of such agencies in order to avoid or minimize need for involuntary separations due to reduction in force, reorganization, transfer of function, or other similar action, provided that in order to receive incentive payment, employee must have separated from service with agency (whether by retirement or resignation) before Apr. 1, 1995, or, under certain circumstances, not later than Mar. 31, 1997, and further provided for definitions, amount and treatment of payments, effect of subsequent employment with the Government, regulations, and authority for Director of Administrative Office of the United States Courts to establish similar program for individuals serving in the judicial branch.

MONITORING AND REPORT RELATING TO VOLUNTARY SEPARATION INCENTIVE PAYMENTS

Section 6 of Pub. L. 103–226 provided that: ''No later than December 31st of each fiscal year, the Office of Personnel Management shall submit to the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Committee on Post Office and Civil Service of the House of Representatives a report which, with respect to the preceding fiscal year, shall include—

''(1) the number of employees who received a voluntary separation incentive payment under section 3 [set out above] during such preceding fiscal year;

''(2) the agency from which each such employee separated;

''(3) at the time of separation from service by each such employee—

''(A) such employee's grade or pay level; and

''(B) the geographic location of such employee's official duty station, by region, State, and city (or foreign nation, if applicable); and

''(4)(A) the number of waivers made (in the repayment upon subsequent employment) by each agency or other authority under section 3 [set out above] or the amendments made by section 8 [amending this section and section 403x of Title 50, War and National Defense]; and

''(B) the title and the grade or pay level of the position filled by the employee to whom such waiver applied.''

[Committee on Post Office and Civil Service of House of Representatives abolished by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. References to Committee on Post Office and Civil Service treated as referring to Committee on Government Reform and Oversight, see section 1(b) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.]

SOURCE OF PAYMENTS

Section 4436(b)(1) of Pub. L. 102–484 provided that: ''For fiscal years after fiscal year 1993, separation pay shall be paid by an agency out of any funds or appropriations available for salaries and expenses of such agency.''

REPORT

Section 4436(c) of Pub. L. 102–484 provided that: ''At the end of each of fiscal years 1993 through 1998, the Secretary of Defense shall submit to the President, the Congress, and the Director of the Office of Personnel Management a report on the effectiveness and costs of carrying out the amendments made by this section [enacting this section].''

CHAPTER 57—TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SUBCHAPTER I—TRAVEL AND SUBSISTENCE EXPENSES; MILEAGE ALLOWANCES

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