

(C) Enlistment bonus under section 331 of this title.

(D) Career enlisted flyer incentive pay under section 320 or 353 of this title.

(e) The clothing allowance under section 418 of this title may not be considered in determining the amount of the pay and allowances of a grade formerly held by an officer if the officer is entitled to a uniform allowance under section 415 of this title.

(Added Pub. L. 91-484, §1(1), Oct. 21, 1970, 84 Stat. 1083; amended Pub. L. 96-343, §6(a)(1), Sept. 8, 1980, 94 Stat. 1126; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 105-85, div. A, title VI, §619(d), Nov. 18, 1997, 111 Stat. 1790; Pub. L. 105-261, div. A, title VI, §617(b), Oct. 17, 1998, 112 Stat. 2041; Pub. L. 109-163, div. A, title VI, §686(a), (b), Jan. 6, 2006, 119 Stat. 3325, 3326; Pub. L. 114-328, div. A, title VI, §618(h)(4), Dec. 23, 2016, 130 Stat. 2161; Pub. L. 115-91, div. A, title VI, §618(h), Dec. 12, 2017, 131 Stat. 1427.)

Editorial Notes

AMENDMENTS

2017—Subsec. (d)(1)(A). Pub. L. 115-91, §618(h)(1)(A), inserted “or 351” after “section 301”.

Subsec. (d)(1)(B). Pub. L. 115-91, §618(h)(1)(B), inserted “or 352” after “section 301c”.

Subsec. (d)(1)(C). Pub. L. 115-91, §618(h)(1)(C), inserted “or 353(a)” after “section 304”.

Subsec. (d)(1)(D). Pub. L. 115-91, §618(h)(1)(D), inserted “or 352” after “section 305”.

Subsec. (d)(1)(E). Pub. L. 115-91, §618(h)(1)(E), inserted “or 352” after “section 305a”.

Subsec. (d)(1)(F). Pub. L. 115-91, §618(h)(1)(F), inserted “or 352” after “section 305b”.

Subsec. (d)(1)(G). Pub. L. 115-91, §618(h)(1)(G), inserted “or 352” after “section 307a”.

Subsec. (d)(1)(I). Pub. L. 115-91, §618(h)(1)(H), inserted “or 352” after “section 314”.

Subsec. (d)(1)(J). Pub. L. 115-91, §618(h)(1)(I), substituted “353(b)” for “316”.

Subsec. (d)(1)(K). Pub. L. 115-91, §618(h)(1)(J), substituted “section 355” for “323”.

Subsec. (d)(2)(A). Pub. L. 115-91, §618(h)(2)(A), inserted “or 352” after “section 307”.

Subsec. (d)(2)(B). Pub. L. 115-91, §618(h)(2)(B), substituted “331” for “308”.

Subsec. (d)(2)(C). Pub. L. 115-91, §618(h)(2)(C), substituted “331” for “309”.

Subsec. (d)(2)(D). Pub. L. 115-91, §618(h)(2)(D), inserted “or 353” after “section 320”.

2016—Subsec. (d)(1)(H). Pub. L. 114-328 inserted “or 351” after “section 310”.

2006—Subsecs. (a), (b). Pub. L. 109-163, §686(b)(1), substituted “the officer” for “he” wherever appearing and “the appointment” for “his appointment” wherever appearing.

Subsec. (c)(2). Pub. L. 109-163, §686(b)(2), substituted “the officer remained” for “he remained”.

Subsec. (d). Pub. L. 109-163, §686(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In determining the amount of the pay and allowances of a grade formerly held by an officer, incentive pay for hazardous duty under section 301 of this title, special pay for diving duty under section 304 of this title, for hardship duty under section 305 of this title, and for sea duty under section 305a of this title, and proficiency pay under section 307 of this title may be considered only so long as the officer continues to perform the duty creating the entitlement to or eligibility for that pay and would otherwise be eligible to receive that pay in his former grade.”

1998—Subsec. (d). Pub. L. 105-261 substituted “hardship duty” for “duty at a hardship duty location”.

1997—Subsec. (d). Pub. L. 105-85 substituted “duty at a hardship duty location” for “duty at certain places”.

1991—Subsec. (c)(1). Pub. L. 102-25 struck out “of this section” after “subsection (d)” in subpar. (A) and after “subsection (e)” in subpar. (B).

1980—Pub. L. 96-343 substituted “and warrant officers appointed as officers:” for “appointed as officers;” in section catchline, and, in generally revising section, struck out provision for temporary appointment of enlisted members as officers, provided for pay and allowances for warrant officers who accept appointment as commissioned officers, and specified what pay and allowances include and what rates and allowances of a grade which an officer formerly held are for purposes of this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-163, div. A, title VI, §686(c), Jan. 6, 2006, 119 Stat. 3326, provided that: “Subsection (d) of section 907 of title 37, United States Code, as amended by subsection (a), shall apply with respect to any acceptance by an enlisted member of the Armed Forces of an appointment as an officer made on or after the date of the enactment of this Act [Jan. 6, 2006].”

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-343, §6(c), Sept. 8, 1980, 94 Stat. 1127, provided that: “The amendments made by this section [amending this section and section 203 of this title] shall be effective with respect to periods for which pay and allowances are payable which begin after August 31, 1980.”

§ 908. Reserves and retired members: acceptance of employment, payments, and awards from foreign governments

(a) CONGRESSIONAL CONSENT.—Subject to subsections (b) and (c), Congress consents to the following persons accepting civil employment (and compensation for that employment), accepting payment for speeches, travel, meals, lodging, or registration fees, or accepting a non-cash award, for which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution, related to acceptance of emoluments, offices, or titles from a foreign government:

(1) Retired members of the uniformed services.

(2) Members of a reserve component of the armed forces, except members serving on active duty under a call or order to active duty for a period in excess of 30 days.

(3) Members of the Commissioned Reserve Corps¹ of the Public Health Service.

(b) APPROVAL REQUIRED FOR EMPLOYMENT AND COMPENSATION.—A person described in subsection (a) may accept employment or compensation described in that subsection only if the Secretary concerned and the Secretary of State approve the employment.

(c) APPROVAL REQUIRED FOR CERTAIN PAYMENTS AND AWARDS.—A person described in subsection (a) may accept payment for speeches, travel, meals, lodging, or registration fees described in that subsection, or accept a non-cash

¹ See Change of Name note below.

award described in that subsection, only if the Secretary concerned approves the payment or award.

(d) ANNUAL REPORTS ON APPROVALS FOR RETIRED GENERAL AND FLAG OFFICERS.—(1) Not later than January 31 each year, the Secretaries of the military departments, after consulting with the Secretary of State, shall jointly submit to the Committees on Armed Services of the Senate and House of Representatives a report on each approval under subsection (b) for employment or compensation described in subsection (a), and each approval under subsection (c) for a payment or award described in subsection (a), for a retired member of the armed forces in general or flag officer grade that was issued during the preceding year.

(2) The report under paragraph (1) on an approval described in that paragraph with respect to an officer shall set forth the following:

(A) The foreign government providing the employment or compensation or payment or award.

(B) The duties, if any, to be performed in connection with the employment or compensation or payment or award.

(C) The total amount of compensation, if any, or payment to be provided.

(e) MILITARY SERVICE IN FOREIGN ARMED FORCES.—For a provision of law providing the consent of Congress to service in the military forces of certain foreign nations, see section 1060 of title 10.

(Added Pub. L. 97-295, §3(6)(A), Oct. 12, 1982, 96 Stat. 1304; amended Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103-160, div. A, title XIV, §1433(c), Nov. 30, 1993, 107 Stat. 1834; Pub. L. 103-337, div. A, title X, §1070(d)(6), Oct. 5, 1994, 108 Stat. 2858; Pub. L. 116-92, div. A, title VI, §651(a), Dec. 20, 2019, 133 Stat. 1431; Pub. L. 116-283, div. A, title VI, §641(a)-(c)(1), Jan. 1, 2021, 134 Stat. 3683.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
908	37:801 (note).	Aug. 17, 1977, Pub. L. 95-105, §509(a)-(c), 91 Stat. 859.

In subsection (a), the words “for which” are substituted for “with respect to which” for clarity.

The text of section 509(c) of the Act of August 17, 1977, is omitted as unnecessary because of the definitions in 37:101.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, §641(c)(1), amended section catchline generally, substituting “Reserves and retired members: acceptance of employment, payments, and awards from foreign governments” for “Employment of reserves and retired members by foreign governments”.

Subsec. (a). Pub. L. 116-283, §641(a)(1)(A), in introductory provisions, substituted “subsections (b) and (c)” for “subsection (b)” and inserted “, accepting payment for speeches, travel, meals, lodging, or registration fees, or accepting a non-cash award,” after “that employment”.

Subsec. (a)(2). Pub. L. 116-283, §641(a)(1)(B), substituted “armed forces, except members serving on ac-

tive duty under a call or order to active duty for a period in excess of 30 days” for “armed forces”.

Subsec. (b). Pub. L. 116-283, §641(a)(2), inserted “for Employment and Compensation” after “Approval Required” in heading.

Subsec. (c). Pub. L. 116-283, §641(a)(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 116-283, §641(a)(3), (b), redesignated subsec. (c) as (d), designated existing provisions as par. (1), inserted “, and each approval under subsection (c) for a payment or award described in subsection (a),” after “in subsection (a)”, and added par. (2). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 116-283, §641(a)(3), redesignated subsec. (d) as (e).

2019—Subsecs. (c), (d). Pub. L. 116-92, §651(a), added subsec. (c) and redesignated former subsec. (c) as (d).

1994—Subsec. (c). Pub. L. 103-337 substituted “1060” for “1058”.

1993—Pub. L. 103-160 inserted headings in subsecs. (a) and (b) and added subsec. (c).

1991—Subsec. (a). Pub. L. 102-25 struck out “of this section” after “subsection (b)”.

Subsec. (b). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to Reserve Corps of the Public Health Service deemed to be a reference to the Ready Reserve Corps, see section 204(c)(3) of Title 42, The Public Health and Welfare.

SCOPE OF FIRST REPORT

Pub. L. 116-92, div. A, title VI, §651(b), Dec. 20, 2019, 133 Stat. 1431, provided that: “The first report submitted pursuant to subsection (c) of section 908 of title 37, United States Code (as amended by subsection (a) of this section), after the date of the enactment of this Act [Dec. 20, 2019] shall cover the five-year period ending with the year before the year in which such report is submitted.”

§ 909. Special and incentive pay: payment at un-reduced rates during suspension of personnel laws

(a) AUTHORITY TO CONTINUE PAYMENT AT UNREDUCED RATES.—To ensure fairness and recognize the contributions of members of the armed forces to military essential missions, the Secretary of the military department concerned may authorize members who are involuntarily retained on active duty under section 123 or 12305 of title 10 or any other provision of law and who, immediately before retention on active duty, were entitled or eligible for special pay or incentive pay under chapter 5 of this title, to receive that special pay or incentive pay for qualifying service performed during the retention period, without a reduction in the payment rate below the rate the members received immediately before retention on active duty, notwithstanding any requirement otherwise applicable to that special pay or incentive pay that would reduce the payment rate by reason of the years of service of the members.

(b) SUSPENSION DURING TIME OF WAR.—Subsection (a) does not apply with respect to a special pay or incentive pay under chapter 5 of this title, whenever the authority to provide that special pay or incentive pay is suspended by the President or the Secretary of Defense during a time of war.