

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.

(c) **QUALIFYING SERVICE DEFINED.**—In this section, the term “qualifying service” means service for which a particular special pay or incentive pay is payable under the authority of a provision of chapter 5 of this title.

(Added Pub. L. 107–107, div. A, title VI, §623(a)(1), Dec. 28, 2001, 115 Stat. 1142.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 107–107, div. A, title VI, §623(b), Dec. 28, 2001, 115 Stat. 1143, provided that: “Section 909 of title 37, United States Code, as added by subsection (a)(1), shall apply with respect to pay periods beginning after September 11, 2001.”

§ 910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service

(a) **PAYMENT REQUIRED.**—The Secretary concerned shall pay to an eligible member of a reserve component of the armed forces an amount equal to the monthly active-duty income differential of the member, as determined by the Secretary, when the total monthly military compensation of the member is less than the average monthly civilian income of the member. The payments shall be made on a monthly basis.

(b) **ELIGIBILITY.**—(1) A member of a reserve component is entitled to a payment under this section for any full month of active duty of the member, when the total monthly military compensation of the member is less than the average monthly civilian income of the member, while the member is on active duty under an involuntary mobilization order, following the date on which the member—

(A) completes 547 continuous days of service on active duty under an involuntary mobilization order;

(B) completes 730 cumulative days on active duty under an involuntary mobilization order during the previous 1,826 days; or

(C) is involuntarily mobilized for service on active duty for a period of 180 days or more within 180 days after the date of the member’s separation from a previous period of active duty for a period of 180 days or more.

(2) The entitlement of a member of a reserve component to a payment under this section also shall commence or, if previously commenced under paragraph (1), shall continue if the member—

(A) satisfies the required number of days on active duty specified in subparagraph (A) or (B) of paragraph (1) or was involuntarily mobilized as provided in subparagraph (C) of such paragraph; and

(B) is retained on active duty under subparagraph (A) or (B) of section 12301(h)(1) of title 10 because of an injury or illness incurred or aggravated while the member was assigned to duty in an area for which special pay under section 310, or paragraph (1) or (3) of section 351(a), of this title is available.

(3) A civilian employee of the Federal Government who is also a member of a reserve compo-

nent is not entitled to a payment under this section for any period for which the employee is entitled to—

(A) a differential payment under section 5538 of title 5; or

(B) a comparable benefit under an administratively established program for civilian employees absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services.

(c) **MINIMUM AND MAXIMUM PAYMENT AMOUNTS.**—(1) A payment under this section shall be made to a member for a month only if the amount of the monthly active-duty income differential for the month is greater than \$50.

(2) Notwithstanding the amount determined under subsection (d) for a member for a month, the monthly payment to a member under this section may not exceed \$3,000.

(d) **MONTHLY ACTIVE-DUTY INCOME DIFFERENTIAL.**—For purposes of this section, the monthly active-duty income differential of a member is the difference between—

(1) the average monthly civilian income of the member; and

(2) the member’s total monthly military compensation.

(e) **DEFINITIONS.**—In this section:

(1) The term “average monthly civilian income”, with respect to a member of a reserve component, means the amount, determined by the Secretary concerned, of the earned income of the member for either the 12 months preceding the member’s mobilization or the 12 months covered by the member’s most recent Federal income tax filing, divided by 12.

(2) The term “total monthly military compensation” means the amount, computed on a monthly basis, of the sum of—

(A) the amount of the regular military compensation (RMC) of the member; and

(B) any amount of special pay or incentive pay and any allowance (other than an allowance included in regular military compensation) that is paid to the member on a monthly basis.

(f) **REGULATIONS.**—This section shall be administered under regulations to be prescribed by the Secretary of Defense.

(g) **TERMINATION.**—No payment shall be made to a member under this section for months beginning after December 31, 2021, unless the entitlement of the member to payments under this section commenced on or before that date.

(Added Pub. L. 109–163, div. A, title VI, §614(a), Jan. 6, 2006, 119 Stat. 3292; amended Pub. L. 110–181, div. A, title VI, §604, Jan. 28, 2008, 122 Stat. 145; Pub. L. 110–417, [div. A], title VI, §605, Oct. 14, 2008, 122 Stat. 4483; Pub. L. 111–84, div. A, title VI, §611(7), Oct. 28, 2009, 123 Stat. 2352; Pub. L. 111–383, div. A, title VI, §§601(a), 611(7), Jan. 7, 2011, 124 Stat. 4235, 4236; Pub. L. 112–81, div. A, title VI, §611(7), Dec. 31, 2011, 125 Stat. 1449; Pub. L. 112–239, div. A, title VI, §611(8), Jan. 2, 2013, 126 Stat. 1776; Pub. L. 113–66, div. A, title VI, §611(8), Dec. 26, 2013, 127 Stat. 780; Pub. L. 113–291, div. A, title VI, §611(8), Dec. 19, 2014, 128 Stat. 3399; Pub. L. 114–92, div. A, title VI, §611(8),