

Editorial Notes

AMENDMENTS

2016—Pub. L. 114-328, div. A, title XI, § 1134(c)(2), Dec. 23, 2016, 130 Stat. 2459, substituted “Advance payments for new appointees and employees relocating within the United States and its territories” for “Advance payments for new appointees” in item 5524a.

2014—Pub. L. 113-277, § 2(g)(3), Dec. 18, 2014, 128 Stat. 3005, added item 5550.

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.

Statutory Notes and Related Subsidiaries

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

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(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

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	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 sub-

section 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.)