

(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 Corps<sup>1</sup> of the Public Health Service.

(b) APPROVAL REQUIRED FOR EMPLOYMENT AND COMPENSATION.—(1) 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 after determining that such approval is not contrary to the national interests of the United States.

(2) The Secretary of a military department may delegate the determination of the Secretary required by paragraph (1) only to an offi-

<sup>1</sup> See Change of Name note below.

cial of the military department at or above the level of an Assistant Secretary or, in the event of a vacancy in the position of such an official, a civilian official performing the duties of that position.

(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 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 a person shall set forth the following:

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

(B) A description of the duties, if any, the person is to perform and the compensation the person is to receive for such duties, as reflected in the person's application for approval of the employment or compensation or payment or award.

(C) The position the person held or holds in the armed forces, including the rank of the person and the armed force in which the person served.

(D) Any other information the Secretaries of the military departments consider relevant, except that such information may not include the person's date of birth, Social Security number, home address, phone number, or any other personal identifier other than the name and rank of the person and the armed force in which the person served.

(3) Not later than 60 days after the date on which a report required by paragraph (1) is submitted, the Secretaries of the military departments shall make the report, and all contents of the report, available on a publicly accessible internet website.

(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.

(f) PROHIBITION ON FORMER MEMBERS OF ARMED FORCES ACCEPTING EMPLOYMENT WITH CERTAIN FOREIGN GOVERNMENTS.—For a provision of law prohibiting former members of the armed forces from accepting post-service employment with certain foreign governments, see section 989 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; Pub. L. 118-31, div. A, title V, §§523(c), 525, Dec. 22, 2023, 137 Stat. 252, 254.)

#### 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

2023—Subsec. (b). Pub. L. 118-31, §525(1), designated existing provisions as par. (1), inserted “after determining that such approval is not contrary to the national interests of the United States” after “approve the employment”, and added par. (2).

Subsec. (d)(2). Pub. L. 118-31, §525(2)(A)(i), substituted “a person” for “an officer” in introductory provisions.

Subsec. (d)(2)(B) to (D). Pub. L. 118-31, §525(2)(A)(ii), added subpars. (B) to (D) and struck out former subpars. (B) and (C) which read as follows:

“(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.”

Subsec. (d)(3). Pub. L. 118-31, §525(2)(B), added par. (3).

Subsec. (f). Pub. L. 118-31, §523(c), added subsec. (f).

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 active 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 unreduced 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 component 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,