“(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 the 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 received or continued to receive pay (as defined in section 5533(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.”


NEW SUBSECTION

§ 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.

(d) Paragraph (1) of this subsection 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 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 321 of title 15;

(D) section 907 of title 20;

(E) section 873 of title 33;

(F) section 631 or 631a of title 31, District of Columbia Code.

(2) Subsection (c) of this section does not apply to payment received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period.


HISTORICAL AND REVISION NOTES

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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”.

Subsection (d)(7)(D), reference to “section 907 of title 20” is substituted for 5 U.S.C. 2358(b) 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 174–1, 174–3, 174–4, 174–5, 174–6, 174–7, and 174k of title 20, referred to in subsection (c)(1), were transferred to sections 2042, 2043, 2044, 2045, 2046, 2047, and 2041, respectively, of Title 2, The Congress. Section 174–2 of title 20 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”.


2See References in Text note below.
Amendment by Pub. L. 90-206 effective at beginning of first pay period which begins on or after Dec. 16, 1967, see section 229(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 4571 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), 535(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 SALARIES ARE SET OUT AS NOTES UNDER SECTIONS 4571 THROUGH 4575 OF TITLE 2

1987—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1987, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 12, 1998, formerly set out as a note under section 4571 of Title 2.

1988—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1988, 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 4571 of Title 2.

1989—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1989, to the figure "$32,515", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 17, 1997, formerly set out as a note under section 4571 of Title 2.

1990—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1990, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 21, 1989, formerly set out as a note under section 4571 of Title 2.

1991—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1991, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 19, 2001, formerly set out as a note under section 4571 of Title 2.

1992—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1992, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 2001, formerly set out as a note under section 4571 of Title 2.

1993—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1993, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 18, 1991, formerly set out as a note under section 4571 of Title 2.

1994—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1994, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 19, 1993, formerly set out as a note under section 4571 of Title 2.

1995—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1995, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 18, 1992, formerly set out as a note under section 4571 of Title 2.

1996—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1996, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 18, 1991, formerly set out as a note under section 4571 of Title 2.

1997—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1997, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 18, 1990, formerly set out as a note under section 4571 of Title 2.

1998—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1998, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 17, 1997, formerly set out as a note under section 4571 of Title 2.

1999—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 1999, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 16, 1998, formerly set out as a note under section 4571 of Title 2.

2000—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 2000, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 1999, formerly set out as a note under section 4571 of Title 2.

2001—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 2001, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 2000, formerly set out as a note under section 4571 of Title 2.

2002—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 2002, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 20, 2001, formerly set out as a note under section 4571 of Title 2.

2003—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 2003, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 19, 2002, formerly set out as a note under section 4571 of Title 2.

2004—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 2004, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Mar. 5, 2004, formerly set out as a note under section 4571 of Title 2.

2005—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 2005, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Mar. 5, 2004, formerly set out as a note under section 4571 of Title 2.

2006—The figure "$10,540" in subsection (c)(1) of this section to be deemed to refer, effective Jan. 1, 2006, to the figure "$31,906", see section 9 of Salary Directive of President pro tempore of the Senate, Mar. 5, 2005, formerly set out as a note under section 4571 of Title 2.
figure "$11,830"", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 19, 1986, formerly set out as a note under section 4571 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 4571 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 "$13,337" , see section 9 of Salary Directive of President pro tempore of the Senate, Oct. 1, 1982, formerly set out as a note under section 4571 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 4571 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 4571 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 "$11,050" , see section 9 of Salary Directive of President pro tempore of the Senate, Oct. 9, 1978, formerly set out as a note under section 4571 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 4571 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 4571 of Title 2.

1975—The figure "7,724" in subsection (c)(1) of this section, deemed to refer, effective Jan. 1, 1975, to the figure "9,280", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 16, 1972, formerly set out as a note under section 4571 of Title 2.

1974—The figure "7,724" in subsection (c)(1) of this section, deemed to refer, effective Oct. 1, 1974, to the figure "8,637", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 23, 1974, formerly set out as a note under section 4571 of Title 2.

1973—The figure "7,724" in subsection (c)(1) of this section, deemed to refer, effective Feb. 1, 1973, to the figure "8,357", see section 9 of Salary Directive of President pro tempore of the Senate, Dec. 23, 1972, formerly set out as a note under section 4571 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 4571 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 4571 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. 90-295 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 "6,663" 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 27, 1969, formerly set out as a note under section 4571 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 "6,623", see section 1(t) of Salary Directive of President pro tempore of the Senate, June 12, 1968, formerly set out as a note under section 4571 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. 481.)

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. 633). 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. 564, 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

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<td>5 U.S.C. 30(c)(1st sentence)</td>
<td>Aug. 10, 1966, ch. 1041, §126(c) (1st sentence), 70A Stat. 652</td>
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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.


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. 633). 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. 564, 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.