# TITLE 37—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

*This title was enacted by Pub. L. 87–649, § 1, Sept. 7, 1962, 76 Stat. 451*


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AMENDMENTS

1966—Pub. L. 89–554, § 5(a), Sept. 6, 1966, 80 Stat. 625, inserted item for chapter 10.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 37

| *Title 37 Former Sections* | *Title 37 New Sections* |
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| 1–3 | Rep. |
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| 4–4b | Rep. |
| 4c | T. 10 §§ 3682, 8682 |
| 4c–1 | T. 10 § 6116 |
| 5–8a | Rep. |
| 9, 9a | Rep. |
| 10, 10a | Rep. |
| 11–13a | Rep. |
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| 20, 20a | Rep. |
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| 30, 31 | Rep. |
| 31a (less proviso of (b)) | T. 10 §§ 701–704 |
| 31a(b) (proviso) | 501 |
| 32(b), (d), (e), (g), (h) | 501 |
| 32(c) | Rep. |
| 32(f) | 101, 502; T. 10 §§ 702–704 |
| 32 (less (b)–(e), (g), (h)) | 101 |
| 33(a) | Rep. |
| 33(b) | 502, 503 |
| 33(c), (d) | 501 |
| 33(e) | T. 10 § 704 |
| 33a–37 | Rep. |
| 38 | 504; T. 10 § 702 |
| 39 | 501–503. Rep. in part. See T. 33 § 857a |
| 101–101b | Rep. |
| 102–103b | Rep. |
| 104–111 | Rep. |
| 111a | 403 |
| 111b | Elim. |
| 112 | Rep. |
| 112a | Elim. |
| 112b | Rep. |
| 112c | T. 10 § 7477 |
| 112d–112i | Rep. |
| 113, 114 | Rep. |
| 115 | Elim. |
| 115a to 117a–1 | Rep. |
| 117b, 118 | Rep. |
| 118a | Elim. |
| 118a-1 | 301 |
| 118b–120 | Rep. |
| 201–208a | Rep. |
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| 231(g) | 401, 420 |

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| *Title 37 Former Sections* | *Title 37 New Sections* |
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| 231 (less (g)) | 101 |
| 232(a) | 203 |
| 232(c) (last sent.) | T. 10 § 517 |
| 232(d) | 204 |
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| 233 (less proviso of (d)) | 205 |
| 233(d) (proviso) | Elim. |
| 234 | 302, 303 |
| 234a | Rep. |
| 234b | Elim. |
| 235 | 301 |
| 235a | 901 |
| 236 | 304 |
| 237 | 305 |
| 238 | Elim. |
| 239 | 308 |
| 240 | 307 |
| 241 | 306 |
| 242 | Rep. |
| 243 | 902 |
| 244 | Rep. |
| 251, 251a | 402 |
| 252(a)–(f) | 403 |
| 252 (less (a)–(f)) | Rep. See T. 50 App. §§ 2201–2204 |
| 253(a) | 404 |
| 253(b) | 405 |
| 253(c) | 406, 407, 409, 411 |
| 253(d) | 404 |
| 253(e) | 410 |
| 253(f)–(h) | 411 |
| 253a | Rep. |
| 254 | 414 |
| 255 | 415–417 |
| 256 | 415 |
| 256a | 419 |
| 257 | 414 |
| 271 | T. 10 §§ 1204, 1362; T. 33 § 857a; T. 42 § 213a |
| 272(a), (b) | T. 10 §§ 1201–1203; T. 33 § 857a; T. 42 § 213a |
| 272(c) | T. 10 §§ 1204–1206; T. 33 § 857a; T. 42 § 213a |
| 272(d) | T. 10 §§ 1210, 1372, 1373, 1401, 1402; T. 33 § 857a; T. 42 § 213a |
| 272(e) | T. 10 §§ 1210, 1401; T. 33 § 857a; T. 42 § 213a |
| 272(f) | T. 10 §§ 1201, 1204, 1210; T. 33 § 857a; T. 42 § 213a |
| 272(g) | T. 10 § 1209; T. 33 § 857a; T. 42 § 213a |
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| 272(i) | T. 10 § 1215; T. 33 § 857a; T. 42 § 213a |
| 273 | T. 10 § 1212; T. 33 § 857a; T. 42 § 213a |
| 274 | T. 10 § 1210; T. 33 § 857a; T. 42 § 213a |
| 275–277 | T. 10 § 1211; T. 33 § 857a; T. 42 § 213a |
| 278 | T. 10 § 1207; T. 33 § 857a; T. 42 § 213a |
| 279 | T. 10 §§ 1372, 1373; T. 33 § 857a; T. 42 § 213a |
| 280 | T. 10 § 1213; T. 33 § 857a; T. 42 § 213a |
| 281 | Rep. |
| 282 | T. 10 § 1208. Rep. in part. See T. 10 § 1208 nt.; T. 42 § 212(g) |
| 283 | T. 10 § 1214, 1216; T. 33 § 857a; T. 42 § 213a |
| 284 | T. 10 § 1216; T. 33 § 857a; T. 42 § 213a |
| 285 | Rep. |
| 301(a) | 206, 402 |
| 301(b) | 206, 1002 |
| 301(c) | 309 |
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TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 37—Continued

| *Title 37 Former Sections* | *Title 37 New Sections* |
|---|---|
| 301(e) | 206, 301, 309, 402, 1002 |
| 301(f) | Rep. |
| 302 | T. 33 § 853*o*–1 |
| 303 | 423 |
| 304 | 201, 421 |
| 305 | 418 |
| 306 | T. 10 § 6153; T. 14 § 510 |
| 307 | Elim. |
| 308 | 201, 422 |
| 308a | 204 |
| 309 | 1003 |
| 310 | 1004 |
| 310a | Rep. |
| 310b | 1005 |
| 310c, 310c–1 | 1006 |
| 310d | 1006 |
| 311 | Elim. See T. 10 § 568 nt. |
| 312 | Rep. |
| 313 | Elim. |
| 314 | 903 |
| 315 | Rep. |
| 316 | T. 10 § 1402; T. 33 § 857a; T. 42 § 213a |
| 317 | Elim. |
| 318, 319 | Rep. |
| 320 | 403 |
| 321 | Rep. |
| 321a | Elim. |
| 322, 322a | Rep. |
| 323 | 801 |
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| 351 | 601 |
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| 361–363 | T. 10 § 2771; T. 32 § 714; T. 33 § 857a; T. 42 § 213a |
| 364, 365 | T. 10 § 2771; T. 32 § 714; T. 33 § 857a; T. 42 § 213a. Rep. in part. See T. 10 § 2771 nt. |
| 371(e), (f) | T. 10 § 1435; T. 33 § 857a; T. 42 § 213a |
| 371 (less (e), (f)) | T. 10 § 1431; T. 33 § 857a; T. 42 § 213a |
| 372(a) | T. 10 §§ 1431, 1432; T. 33 § 857a; T. 42 § 213a |
| 372(b) | T. 10 § 1431; T. 33 § 857a; T. 42 § 213a |
| 372 (less (a), (b)) | T. 10 § 1433; T. 33 § 857a; T. 42 § 213a |
| 372a–372c | Rep. |
| 373(c) | T. 10 § 1436; T. 33 § 857a; T. 42 § 213a |
| 373(d) | T. 10 § 1439; T. 33 § 857a; T. 42 § 213a |
| 373 (less (c), (d)) | T. 10 § 1434; T. 33 § 857a; T. 42 § 213a |
| 374 | T. 10 § 1438; T. 33 § 857a; T. 42 § 213a |
| 375 | T. 10 § 1444; T. 33 § 857a; T. 42 § 213a |
| 376 | T. 10 § 1442; T. 33 § 857a; T. 42 § 213a |
| 377 | T. 10 §§ 1443, 1444; T. 33 § 857a; T. 42 § 213a |
| 378 | T. 10 § 1440; T. 33 § 857a; T. 42 § 213a |
| 379 | T. 10 § 1437; T. 33 § 857a; T. 42 § 213a |
| 380 | T. 10 § 1441; T. 33 § 857a; T. 42 § 213a |
| 381 | Rep. |
| 401 | T. 10 § 1071 |
| 402(a) | T. 10 §§ 1072, 1074, 1076, 1079 |
| 402 (less (a)) | T. 10 § 1073 |
| 403(a), (b) | T. 10 § 1076 |
| 403(c)–(e) | T. 10 § 1078 |
| 403 (less (a)–(e)) | T. 10 § 1077 |
| 404 | T. 10 § 1084 |
| 405 | Rep. |
| 411(c) | T. 10 § 1080 |
| 411 (less (c)) | T. 10 § 1079 |
| 412 | T. 10 § 1081 |
| 413 | T. 10 § 1082 |
| 414 | T. 10 § 1079 |
| 421(c) | T. 10 § 1076 |
| 421(d) | T. 10 § 1085 |
| 421 (less (c), (d)) | T. 10 § 1074 |
| 422 | T. 10 § 1075 |
| 423 | T. 10 § 1083 |

ENACTING CLAUSE

Pub. L. 87–649, § 1, Sept. 7, 1962, 76 Stat. 451, provided in part: ''That the laws relating to pay and allowances of the uniformed services of the United States are revised, codified, and enacted as title 37 of the United States Code, entitled 'Pay and Allowances of the Uniformed Services'.''

EFFECTIVE DATE

Pub. L. 87–649, § 15, Sept. 7, 1962, 76 Stat. 502, provided in part that: ''This Act shall take effect on November 1, 1962.''

INCONSISTENT PROVISIONS

Pub. L. 87–649, § 15, Sept. 7, 1962, 76 Stat. 502, provided in part that: ''Laws enacted after January 9, 1962, that are inconsistent with this Act shall supersede it to the extent of the inconsistency.''

SAVINGS AND SEVERABILITY PROVISIONS

Pub. L. 87–649, § 12, Sept. 7, 1962, 76 Stat. 497, provided that:

''(a) In sections 1–11 of this Act, it is the legislative purpose to restate, without substantive change, the law replaced by those sections on the effective date of this Act [Nov. 1, 1962]. However, laws effective after January 9, 1962, that are inconsistent with this Act, shall be considered as superseding it to the extent of the inconsistency.

''(b) References that other laws, regulations, and orders make to the replaced law shall be considered to be made to the corresponding provisions of sections 1–11 of this Act.

''(c) Actions taken under the replaced law shall be considered to have been taken under the corresponding provisions of sections 1–11 of this Act.

''(d) If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

''(e) The enactment of this Act does not increase or decrease the pay or allowances, including retired or retainer pay, of any person.''

RESTATEMENT OF SUSPENDED OR TEMPORARILY SUPERSEDED PROVISIONS

Pub. L. 87–649, § 13, Sept. 7, 1962, 76 Stat. 498, provided that: ''If on the effective date of this Act [Nov. 1, 1962], a provision of law that is restated in this Act and repealed by section 14 would have been in a suspended or temporarily superseded status but for its repeal, the provisions of this Act that restate that provision have the same suspended or temporarily superseded status.''

REPEALS

Pub. L. 87–649, § 14, Sept. 7, 1962, 76 Stat. 498, repealed the sections or parts of sections of the Revised Statutes or Statutes at Large covering provisions codified in this title, ''except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act [Nov. 1, 1962] and except as provided in section 12.''

## CHAPTER 1—DEFINITIONS

Sec.
101. Definitions.

AMENDMENTS

1990—Pub. L. 101–510, div. A, title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

### § 101. Definitions

In addition to the definitions in sections 1–5 of title 1, the following definitions apply in this title:

(1)(A) The term ''United States'', in a geographic sense, means the States and the District of Columbia.

(B) The term ''continental United States'' means the 48 contiguous States and the District of Columbia.

(2) The term ''possessions'' includes Guam, American Samoa, and the guano islands.

(3) The term ''uniformed services'' means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

(4) The term ''armed forces'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(5) The term ''Secretary concerned'' means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force;

(D) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard when it is not operating as a service in the Navy;

(E) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and

(F) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

(6) The term ''National Guard'' means the Army National Guard and the Air National Guard.

(7) The term ''Army National Guard'' means that part of the organized militia of the several States, Puerto Rico, Guam, the Canal Zone, the Virgin Islands, and the District of Columbia, active and inactive, that—

(A) is a land force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(8) The term ''Army National Guard of the United States'' means the reserve component of the Army all of whose members are members of the Army National Guard.

(9) The term ''Air National Guard'' means that part of the organized militia of the several States, Puerto Rico, Guam, the Canal Zone, the Virgin Islands, and the District of Columbia, active and inactive, that—

(A) is an air force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(10) The term ''Air National Guard of the United States'' means the reserve component of the Air Force all of whose members are members of the Air National Guard.

(11) The term ''officer'' means commissioned or warrant officer.

(12) The term ''commissioned officer'' includes a commissioned warrant officer.

(13) The term ''warrant officer'' means a person who holds a commission or warrant in a warrant officer grade.

(14) The term ''enlisted member'' means a person in an enlisted grade.

(15) The term ''grade'' means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation.

(16) The term ''rank'' means the order of precedence among members of the uniformed services.

(17) The term ''rating'' means the name (such as ''boatswain's mate'') prescribed for members of a uniformed service in an occupational field; ''rate'' means the name (such as ''chief boatswain's mate'') prescribed for members in the same rating or other category who are in the same grade (such as chief petty officer or seaman apprentice).

(18) The term ''active duty'' means full-time duty in the active service of a uniformed service, and includes full-time training duty, annual training duty, full-time National Guard duty, and attendance, while in the active service, at a school designated as a service school by law or by the Secretary concerned.

(19) The term ''active duty for a period of more than 30 days'' means active duty under a call or order that does not specify a period of 30 days or less.

(20) The term ''active service'' means service on active duty.

(21) The term ''pay'' includes basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances.

(22) The term ''inactive-duty training'' means—

(A) duty prescribed for members of a reserve component by the Secretary concerned under section 206 of this title or any other law; and

(B) special additional duties authorized for members of a reserve component by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned;

and includes those duties when performed by members of a reserve component in their status as members of the National Guard, but (except as provided in section 206(d)(2) of this title) does not include work or study in connection with a correspondence course of a uniformed service.

(23) The term ''member'' means a person appointed or enlisted in, or conscripted into, a uniformed service.

(24) The term ''reserve component'' means—

(A) the Army National Guard of the United States;

(B) the Army Reserve;

(C) the Navy Reserve;

(D) the Marine Corps Reserve;

(E) the Air National Guard of the United States;

(F) the Air Force Reserve;

(G) the Coast Guard Reserve; or

(H) the Reserve Corps of the Public Health Service.

(25) The term ''regular compensation'' or ''regular military compensation (RMC)'' means the total of the following elements that a member of a uniformed service accrues or receives, directly or indirectly, in cash or in kind every payday: basic pay, basic allowance for housing, basic allowance for subsistence; and Federal tax advantage accruing to the aforementioned allowances because they are not subject to Federal income tax.

(26) The term ''contingency operation'' has the meaning given that term in section 101 of title 10.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 451; Pub. L. 89–718, § 49(a)(1), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 90–623, § 3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 92–492, § 3, Oct. 13, 1972, 86 Stat. 810; Pub. L. 93–419, § 1, Sept. 19, 1974, 88 Stat. 1152; Pub. L. 96–513, title V, §§ 506(1), 516(1), Dec. 12, 1980, 94 Stat. 2918, 2937; Pub. L. 96–579, § 11, Dec. 23, 1980, 94 Stat. 3368; Pub. L. 96–600, § 3(b), Dec. 24, 1980, 94 Stat. 3494; Pub. L. 98–525, title IV, § 414(c), Oct. 19, 1984, 98 Stat. 2520; Pub. L. 100–26, § 8(e)(1), Apr. 21, 1987, 101 Stat. 286; Pub. L. 100–456, div. A, title XII, § 1233(f)(2), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 102–190, div. A, title VI, § 631(b), Dec. 5, 1991, 105 Stat. 1380; Pub. L. 102–484, div. A, title X, § 1051(b)(2), Oct. 23, 1992, 106 Stat. 2498; Pub. L. 103–160, div. A, title XI, § 1182(c)(1), Nov. 30, 1993, 107 Stat. 1772; Pub. L. 105–85, div. A, title VI, § 603(d)(1)(A), Nov. 18, 1997, 111 Stat. 1782; Pub. L. 105–261, div. A, title VI, § 651, Oct. 17, 1998, 112 Stat. 2051; Pub. L. 107–107, div. A, title VI, § 603(b), Dec. 28, 2001, 115 Stat. 1133; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, § 654(a), Dec. 2, 2002, 116 Stat. 2581; Pub. L. 109–163, div. A, title V, § 515(d)(1)(A), Jan. 6, 2006, 119 Stat. 3235.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 101(1) ..... | [No source.] | Aug. 9, 1946, ch. 931, § 2 (less (b), (c), (d), (e), (f) (less last 8 words), (g), and (h)), 60 Stat. 963. |
| 101(2) ..... | [No source.] | |
| 101(3) ..... | 37:231(a), (j). | |
| 101(4) ..... | 37:32(a).<br>37:231(k). | |
| 101(5) ..... | 37:32(f) (less last 8 words).<br>37:231(f). | Oct. 12, 1949, ch. 681, § 102 (less (g)), 63 Stat. 804. |
| 101(6) ..... | [No source.] | |
| 101(7) ..... | [No source.] | |
| 101(8) ..... | [No source.] | |
| 101(9) ..... | [No source.] | |
| 101(10) ..... | [No source.] | |
| 101(11) ..... | 37:231(c). | |
| 101(12) ..... | 37:231(d). | |
| 101(13) ..... | 37:231(e), (h). | |
| 101(14) ..... | [No source.] | |
| 101(15) ..... | [No source.] | |
| 101(16) ..... | [No source.] | |
| 101(17) ..... | [No source.] | |
| 101(18) ..... | [No source.] | |
| 101(19) ..... | [No source.] | |
| 101(20) ..... | [No source.] | |
| 101(21) ..... | [No source.] | |

HISTORICAL AND REVISION NOTES—Continued

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 101(22) ..... | 37:231(i). | |
| 101(23) ..... | 37:231(b). | |
| 101(24) ..... | [No source.] | |

The definitions in clauses (1) and (2), (6)–(10), (14)–(21), and (24) reflect the adoption of terminology which, though undefined in the source statutes restated in this revised title, represent the closest practicable approximation of the ways in which the terms defined have been most commonly used, and so far as possible are identical to those used in title 10, United States Code, containing most of the basic law relating to the armed forces.

In clause (3), the words ''and all Regular and Reserve components thereof'', in section 231(a) of existing title 37, are omitted as surplusage. Section 231(j) of existing title 37 is omitted as covered by section 1 of title 1.

In clause (4), that part of section 32(a) of existing title 37 relating other than to the enumeration of the armed forces is omitted as unnecessary. Section 231(k) of existing title 37 is omitted, since throughout the revised title references to members of the Army or Air Force without specification of component are specifically included when necessary.

In clause (11), the words ''flight officer'' are omitted as obsolete. Section 231(c) (last sentence) of existing title 37 is omitted as unnecessary.

In clause (12), the definition of commissioned officer is broadened and restated to conform to the definition in section 101(15) of title 10. Corresponding changes are made throughout the revised title to correspond to the definition.

Clause (13), which is identical to section 101(16) of title 10, is substituted for section 231(e) of existing title 37. The words ''flight officer'' are omitted as obsolete. Section 231(h) of existing title 37 is omitted, since the defined term is not used in the revised title.

Clause (22) is substituted for section 231(i) of existing title 37.

In clause (23), section 231(b) (less 1st sentence) of existing title 37 is omitted as executed by the express coverage of members of the Fleet Reserve and Fleet Marine Corps Reserve.

REFERENCES IN TEXT

For definition of Canal Zone, referred to in pars. (7) and (9), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2006—Par. (24)(C). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

2002—Par. (1). Pub. L. 107–314 designated existing provisions as subpar. (A) and added subpar. (B).

Par. (5)(D). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

2001—Par. (22). Pub. L. 107–107 inserted ''(except as provided in section 206(d)(2) of this title)'' after ''but'' in concluding provisions.

1998—Par. (2). Pub. L. 105–261 struck out ''the Canal Zone,'' after ''includes''.

1997—Par. (25). Pub. L. 105–85 substituted ''basic allowance for housing'' for ''basic allowance for quarters (including any variable housing allowance or station housing allowance)''.

1993—Par. (26). Pub. L. 103–160 made technical amendment to directory language of Pub. L. 102–484. See 1992 Amendment note below.

1992—Par. (26). Pub. L. 102–484, as amended by Pub. L. 103–160, substituted ''section 101 of title 10'' for ''section 101(47) of title 10''.

1991—Par. (26). Pub. L. 102–190 added par. (26).

1988—Par. (5). Pub. L. 100–456 substituted ''Secretary'' for ''secretary'' in introductory provisions.

1987—Pub. L. 100–26, § 8(e)(1)(A), substituted ''the following definitions apply in this title:'' for ''for the purposes of this title—''.

Pub. L. 100–26, §8(e)(1)(B), inserted ''The term'' at beginning of pars. (1) to (25).

Pub. L. 100–26, §8(e)(1)(C), which directed that this section be amended by revising first word after open quotation marks in each paragraph (other than par. (1) and (6) through (10)) so that initial letter of such word is lowercase, was executed to par. (5) only because specified words in other pars. began with lowercase letters.

Pub. L. 100–26, §8(e)(1)(D), (E), which directed a period be substituted for the semicolon at end of pars. (1) to (24) and that ''and'' be struck out at end of par. (24), was executed by making the substitution in pars. (1) to (23) and by striking ''and'' at end of par. (23), to reflect the probable intent of Congress, because par. (24) already ended in a period and ''and'' appeared at end of par. (23), not par. (24).

1984—Cl. (18). Pub. L. 98–525 inserted ''full-time National Guard duty,'' after ''annual training duty,''.

1980—Cls. (3), (5)(E). Pub. L. 96–513, §516(1)(A), substituted ''National Oceanic and Atmospheric'' for ''Environmental Science Services''.

Cl. (5)(F). Pub. L. 96–513, §516(1)(B), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Cls. (7), (9). Pub. L. 96–600 inserted references to Guam.

Cl. (18). Pub. L. 96–513, §506(1), struck out ''duty on the active list,'' after ''and includes''.

Cl. (25). Pub. L. 96–579 defined ''regular compensation'' or ''regular military compensation (RMC)'' to include with respect to basic allowance for quarters any variable housing allowance or station housing allowance.

1974—Cl. (25). Pub. L. 93–419 added cl. (25).

1972—Cls. (7), (9). Pub. L. 92–492 inserted references to Virgin Islands.

1968—Cl. (5)(D). Pub. L. 90–623 substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

1966—Cls. (3), (5)(E). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 506(1), 516(1) of Pub. L. 96–513 effective Sept. 15, 1981, and Dec. 12, 1980, respectively, see section 701(a), (b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–419 effective Sept. 19, 1974, see section 9 of Pub. L. 93–419, set out as an Effective Date note under section 1009 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–60, §1, Oct. 14, 1981, 95 Stat. 989, provided: ''That this Act [enacting sections 308f, 315, 404a, 411c, 411d, and 411e of this title and sections 4341a and 9341a of Title 10, Armed Forces, amending sections 203, 301, 301a, 301b, 301c, 304, 305a, 308, 308a, 312b, 404, 405a, 406, 407, 411, 411b, 415, and 1006 of this title, sections 2107, 2634, 4342, 5031, 5153, 6011, 6953, 6954, 6956, 7572, and 9342 of Title 10, and section 460 of the Appendix to Title 50, War and National Defense, enacting provisions set out as notes under sections 203, 301, 301a, 308, 312, 404, 404a, and 1009 of this title and sections 4341a, 6011, and 7572 of Title 10, and amending a provision set out as a note under section 7572 of Title 10] may be cited as the 'Uniformed Services Pay Act of 1981'.''

SHORT TITLE OF 1980 AMENDMENTS

Section 1 of Pub. L. 96–579 provided that: ''This Act [enacting sections 301c and 314 of this title and section 705 of Title 10, Armed Forces, amending this section, sections 209, 301, 305a, 308, 312, 312b, 312c, and 403 of this title, sections 520, 701, 867, 4355, 6968, and 9355 of Title 10, and section 308(9), (10) of Pub. L. 95–521, title III, Oct. 26, 1978, 92 Stat. 1861, set out in the Appendix to Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as notes under sections 301c, 305a, 312, 312b, 312c, 314, and 403 of this title and sections 705 and 867 of Title 10] may be cited as the 'Military Pay and Allowances Benefits Act of 1980'.''

Pub. L. 96–343, §1, Sept. 8, 1980, 94 Stat. 1123, provided that: ''This Act [enacting section 5142a of Title 10, Armed Forces, amending sections 203, 301, 301a, 305a, 403, 404, 411, 907, and 1006 of this title and sections 1201, 1203, 3914, 3925, 3962, 5142, 5703, 5787c, 5787d, 8072, 8914, 8925, and 8962 of Title 10, enacting provisions set out as notes under sections 301, 305a, 402, 403, 404, and 907 of this title and sections 3914 and 3962 of Title 10, and amending provisions set out as notes under sections 5707 and 8202 of Title 10] may be cited as the 'Military Personnel and Compensation Amendments of 1980'.''

Pub. L. 96–284, §1, June 28, 1980, 94 Stat. 587, provided that: ''This Act [enacting sections 302c and 303a of this title, amending sections 302 to 302b, 303, 306, 311, and 313 of this title, and enacting and repealing provisions set out as notes under section 302 of this title] may be cited as the 'Uniformed Services Health Professionals Special Pay Act of 1980'.''

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–356, §1, July 12, 1976, 90 Stat. 901, provided: ''That this Act [enacting sections 312b and 312c of this title, amending section 312 of this title, and enacting provisions set out as notes under sections 301 and 312 of this title] may be cited as the 'Nuclear Career Incentive Act of 1975'.''

SHORT TITLE OF 1974 AMENDMENTS

Pub. L. 93–294, §1, May 31, 1974, 88 Stat. 177, provided: ''That this Act [amending section 301 of this title, enacting section 301a of this title, and enacting provisions set out as notes under section 301a of this title] may be cited as the 'Aviation Career Incentive Act of 1974'.''

Pub. L. 93–277, §1, May 10, 1974, 88 Stat. 119, provided: ''That this Act [amending sections 308 and 308a of this title and enacting provisions set out as notes under section 308 of this title] may be cited as the 'Armed Forces Enlisted Personnel Bonus Revision Act of 1974'.''

SHORT TITLE OF 1963 AMENDMENT

Pub. L. 88–132, §1, Oct. 2, 1963, 77 Stat. 210, provided: ''That this Act [enacting sections 310 and 427 of this title and section 1401a of Title 10, Armed Forces, amending sections 201, 203, 301, 302, 305, 403, and 421 of this title, sections 1401, 1402, 3991, 6151, 6323, 6325 to 6327, 6381, 6383, 6390, 6394, 6396, 6398 to 6400, 6483, and 8991 of Title 10, section 423 of Title 14, Coast Guard, section 857a of Title 33, Navigation and Navigable Waters, and section 213a of Title 42, The Public Health and Welfare, repealing section 6149 of Title 10 and sections 2351 to 2356 of Title 50, Appendix, War and National Defense, and enacting provisions set out as notes under sections 201, 203, and 305 of this title, section 1402 of Title 10, and

section 411 (now 1311) of Title 38, Veterans' Benefits] may be cited as the 'Uniformed Services Pay Act of 1963'.''

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), 551(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.

## CHAPTER 3—BASIC PAY

Sec.
201. Pay grades: assignment to; general rules.
202. Pay grades: retired Coast Guard rear admirals (lower half).
203. Rates.
204. Entitlement.
205. Computation: service creditable.
206. Reserves; members of National Guard: inactive-duty training.
207. Band leaders.
[208. Repealed.]
209. Members of precommissioning programs.
210. Pay of senior enlisted members during terminal leave and while hospitalized.
211. Participation in Thrift Savings Plan.
212. Advancement of basic pay: members deployed in combat zone for more than one year.

AMENDMENTS

2004—Pub. L. 108–375, div. A, title VI, § 606(b), Oct. 28, 2004, 118 Stat. 1946, added item 212.

1999—Pub. L. 106–65, div. A, title VI, § 661(a)(1)(B), Oct. 5, 1999, 113 Stat. 670, added item 211.

1996—Pub. L. 104–201, div. A, title VI, § 603(b)(2), Sept. 23, 1996, 110 Stat. 2540, substituted ''Pay of senior enlisted members during terminal leave and while hospitalized'' for ''Pay of the senior noncommissioned officer of an armed force during terminal leave'' in item 210.

1991—Pub. L. 102–190, div. A, title VI, § 606(b), Dec. 5, 1991, 105 Stat. 1375, added item 210.

1990—Pub. L. 101–510, div. A, title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

1985—Pub. L. 99–145, title V, § 514(d)(2)(C), Nov. 8, 1985, 99 Stat. 629, substituted ''Pay grades: retired Coast Guard rear admirals (lower half)'' for ''Pay grade: retired Coast Guard commodores'' in item 202.

1984—Pub. L. 98–557, § 25(b)(2)(B), Oct. 30, 1984, 98 Stat. 2872, substituted ''Pay grade: retired Coast Guard commodores'' for ''Pay grades; commodores, retired list'' in item 202.

1983—Pub. L. 97–417, § 3(b), Jan. 4, 1983, 96 Stat. 2087, substituted ''Pay grades; commodores, retired list'' for ''Pay grades: assignment to; rear admirals (upper half) of the Coast Guard'' in item 202.

1980—Pub. L. 96–513, title V, § 506(2), Dec. 12, 1980, 94 Stat. 2918, substituted ''rear admirals (upper half) of the Coast Guard'' for ''rear admirals of upper half; officers holding certain positions in the Navy'' in item 202.

1977—Pub. L. 95–79, title III, § 302(a)(3)(C), July 30, 1977, 91 Stat. 326, substituted ''precommissioning programs'' for ''Senior Reserve Officers' Training Corps'' in item 209.

1970—Pub. L. 91–482, § 2F, Oct. 21, 1970, 84 Stat. 1082, struck out item 208 ''Furlough pay: officers of Regular Navy or Regular Marine Corps''.

1964—Pub. L. 88–647, title II, § 202(5), Oct. 13, 1964, 78 Stat. 1071, substituted ''Senior Reserve Officers' Training Corps'' for ''naval officer candidate programs'' in item 209.

### § 201. Pay grades: assignment to; general rules

(a) For the purpose of computing their basic pay, commissioned officers of the uniformed services (other than commissioned warrant officers) are assigned by the grade or rank in which serving to the following pay grades:

| Pay grade | Army, Air Force, and Marine Corps | Navy, Coast Guard, and National Oceanic and Atmospheric Administration | Public Health Service |
|---|---|---|---|
| O–10 | General | Admiral | Assistant Secretary for Health. |
| O–9 | Lieutenant general. | Vice admiral | Surgeon General. |
| O–8 | Major general. | Rear admiral | Deputy Surgeon General. Assistant Surgeon General having rank of major general. |
| O–7 | Brigadier general. | Rear admiral (lower half). | Assistant Surgeon General having rank of brigadier general. |
| O–6 | Colonel | Captain | Director grade. |
| O–5 | Lieutenant colonel. | Commander | Senior grade. |
| O–4 | Major | Lieutenant commander. | Full grade. |
| O–3 | Captain | Lieutenant | Senior assistant grade. |
| O–2 | 1st lieutenant. | Lieutenant (junior grade). | Assistant grade. |
| O–1 | 2d lieutenant. | Ensign | Junior assistant grade. |

(b) For the purpose of computing their basic pay, warrant officers of the armed forces are assigned, by the warrant officer grade in which serving, to the following pay grades:

| Pay Grade: | Warrant Officer Grade: |
|---|---|
| W–5 | Chief Warrant Officer, W–5. |
| W–4 | Chief Warrant Officer, W–4. |
| W–3 | Chief Warrant Officer, W–3. |
| W–2 | Chief Warrant Officer, W–2. |
| W–1 | Warrant Officer, W–1. |

(c) Unless entitled to the basic pay of a higher pay grade, an aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard is entitled to monthly basic pay at the lowest rate prescribed for pay grade E–4.

(d) Unless he is entitled to the basic pay of a higher pay grade, an aviation pilot of the Navy Reserve, Marine Corps Reserve, or Coast Guard Reserve is entitled to monthly basic pay at the rate prescribed for pay grade E–5.

(e) Except as provided by subsections (c) and (d), enlisted members of the uniformed services shall, for the purpose of computing their basic pay, be distributed by the Secretary concerned in the various enlisted pay grades set forth in section 203 of this title. However, except as provided by section 307 of this title, an enlisted member may not be placed in pay grade E–8 or E–9 until he has completed at least 8 years or 10 years, respectively, of enlisted service computed under section 205 of this title.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 453; Pub. L. 88–132, § 3(a), Oct. 2, 1963, 77 Stat. 212; Pub. L. 89–718, § 49(a)(1), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 91–278, § 3(1), June 12, 1970, 84 Stat. 306; Pub. L. 95–79, title III, § 302(a)(1), July 30, 1977, 91 Stat. 326; Pub. L. 96–76, title III, § 313(a), Sept. 29, 1979, 93 Stat. 586; Pub. L. 96–513, title V, §§ 506(3), 516(2), Dec. 12, 1980, 94 Stat. 2918, 2937; Pub. L.

97–86, title IV, §405(c), Dec. 1, 1981, 95 Stat. 1106; Pub. L. 98–94, title IX, §932(d), Sept. 24, 1983, 97 Stat. 650; Pub. L. 98–557, §25(b)(1), Oct. 30, 1984, 98 Stat. 2872; Pub. L. 99–145, title V, §514(d)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 101–502, §5(k)(2), Nov. 3, 1990, 104 Stat. 1289; Pub. L. 102–25, title VII, §701(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title VI, §605, title XI, §1111(b), Dec. 5, 1991, 105 Stat. 1374, 1491; Pub. L. 109–163, div. A, title V, §515(d)(1)(B), Jan. 6, 2006, 119 Stat. 3236.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 201(a) ..... | 37:232(b). | Oct. 12, 1949, ch. 681, §201(b); restated May 20, 1958, Pub. L. 85–422, §1(2), 72 Stat. 124. |
| 201(b) ..... | 37:304 (as applicable to basic pay). | Oct. 12, 1949, ch. 681, §504 (as applicable to basic pay), 63 Stat. 827. |
| 201(c) ..... | 37:308 (as applicable to pay). | Oct. 12, 1949, ch. 681, §508 (as applicable to pay), 63 Stat. 828; May 19, 1952, ch. 310, §1(e), 66 Stat. 80; Mar. 31, 1955, ch. 20, §2(14), 69 Stat. 22. |
| 201(d) ..... | 10:555(a) (as applicable to pay grades). | [None.] |
| 201(e) ..... | 37:232(e). | Oct. 12, 1949, ch. 681, §201(e); added Mar. 31, 1955, ch. 20, §2(3), 69 Stat. 19. |
| 201(f) ..... | 10:6915(f). | [None.] |
| | 14:758a(f). | [None.] |
| 201(g) ..... | 37:232(c) (less last sentence). | Oct. 12, 1949, ch. 681, §201(c) (less last sentence), 63 Stat. 807; redesignated as ''(c)'' by Mar. 31, 1955, ch. 20, §2(2), 69 Stat. 19; May 20, 1958, Pub. L. 85–422, §1(3) (first sentence), 72 Stat. 124. |

In subsection (a), the words ''whether under temporary or permanent appointment'' are omitted as surplusage. The words ''the following pay grades'' are substituted for the words ''the various pay grades prescribed for commissioned officers by subsection (a) of this section, as follows''. The words ''(other than a commissioned warrant officer)'' are inserted to conform to the definition of ''warrant officer'' in section 101(13) of this revised title.

In subsection (b), the words ''with two or less years of service computed under section 205 of this title'' are substituted for the word ''minimum''.

In subsections (c) and (e), the words ''with two or less years of service computed under section 205 of this title'' are substituted for the words ''with under two cumulative years' service'' and ''with under two cumulative years of service'', in sections 308 and 232(e), respectively, of existing title 37.

In subsection (e), the words ''enlisted or appointed under the Army Aviation Cadet Act, as amended, or under the Naval Aviation Cadet Act of 1942, as amended'' are omitted as obsolete and surplusage. Both of the cited acts were repealed by section 53 of the Act of August 10, 1956, ch. 1041 (70A Stat. 641), and replaced by various sections of title 10. Further reference is surplusage, however, since aviation cadets are not appointed or enlisted under any provision of law other than the sections of title 10 embodying the former Army Aviation Cadet Act and the Naval Aviation Cadet Act of 1942. The word ''basic'' is inserted for clarity, since the word ''pay'' as defined in section 101(21) of this revised title includes special and incentive pays. Incentive pay for aviation cadets is provided in section 301(b) of this revised title.

In subsection (f), the words ''While on active duty'', in section 6915(f) of title 10 and section 758a(f) of title 14, are omitted as covered by section 204 of this title which prescribes the conditions under which members of the uniformed services are entitled to basic pay. The words ''Unless he is entitled to the basic pay of a higher pay grade'' are substituted for the words ''or that of his grade, whichever is greater'' in section 6915(f) of title 10 and section 758a(f) of title 14.

In subsection (g), the words ''Except as provided by subsections (e) and (f)'' are inserted to reflect those subsections relating to enlisted aviation cadets or aviation pilots.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

1991—Subsec. (b). Pub. L. 102–190, §1111(b), amended table generally, adding provisions relating to Chief Warrant Officer at grade W–5.

Subsec. (c). Pub. L. 102–190, §605, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''An aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard is entitled to monthly basic pay at the rate of 50 percent of the basic pay of a commissioned officer in pay grade O–1 with two or less years of service computed under section 205 of this title.''

Subsec. (e). Pub. L. 102–25 struck out ''of this section'' after ''subsections (c) and (d)''.

1990—Subsec. (a). Pub. L. 101–502 inserted ''Assistant Secretary for Health'' in fourth column of table in pay grade O–10.

1985—Subsec. (a). Pub. L. 99–145 substituted ''Rear admiral (lower half)'' for ''Commodore'' in third column of table in pay grade O–7.

1984—Subsec. (a). Pub. L. 98–557 substituted ''Rear admiral'' for ''Rear admiral (Navy) and Rear admiral (upper half)(Coast Guard and National Oceanic and Atmospheric Administration)'' in third column of table in pay grade O–8, and in pay grade O–7 substituted ''Commodore'' for ''Commodore (Navy) and Rear admiral (lower half) and commodore (Coast Guard and National Oceanic and Atmospheric Administration''.

1983—Subsecs. (b) to (f). Pub. L. 98–94 struck out subsec. (b) which related to basic pay for contract surgeons, redesignated subsecs. (c) to (f) as (b) to (e), respectively, and in subsec. (e), as so redesignated, substituted ''subsections (c) and (d)'' for ''subsections (d) and (e)''.

1981—Subsec. (a). Pub. L. 97–86 substituted ''Commodore'' for ''Commodore admiral'' in third column of table in pay grade O–7.

1980—Subsec. (a). Pub. L. 96–513, §506(3), substituted in heading of third column of table ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration'' and in third column ''Rear admiral (Navy) and Rear admiral (upper half) (Coast Guard and National Oceanic and Atmospheric Administration)'' for ''Rear admiral (upper half)'' and ''Commodore admiral (Navy) and Rear admiral (lower half) and commodore (Coast Guard and National Oceanic and Atmospheric Administration)'' for ''Rear admiral (lower half) and commodore''.

Subsec. (f). Pub. L. 96–513, §516(2), substituted ''subsection (d)'' for ''subsection (f)''.

1979—Subsec. (a). Pub. L. 96–76 transferred the Surgeon General from pay grade O–8 to pay grade O–9 in fourth column of table.

1977—Subsecs. (c) to (g). Pub. L. 95–79 struck out subsec. (c) which related to the monthly rate of pay of cadets and midshipmen at the service academies, and redesignated subsecs. (d) to (g) as (c) to (f), respectively.

1970—Subsec. (e). Pub. L. 91–278 entitled aviation cadets of Coast Guard to basic pay rate.

1966—Subsec. (a). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey'' in heading of third column of table.

1963—Subsec. (b). Pub. L. 88–132 substituted ''O–3 with over four, but not more than six,'' for ''O–2 with two or less''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 1111(b) of Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5(k)(3) of Pub. L. 101–502 provided that: ''The amendments made by paragraphs (1) and (2) [amending this section and section 207 of Title 42, The Public Health and Welfare] shall take effect on the first day of the month immediately following the month in which this Act was enacted [November 1990].''

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 effective Oct. 1, 1983, see section 932(f) of Pub. L. 98–94, set out as an Effective Date note under section 1091 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 506(3), 516(2) of Pub. L. 96–513 effective Sept. 15, 1981, and Dec. 12, 1980, respectively, see section 701(a), (b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–76 effective Oct. 1, 1979, see section 314 of Pub. L. 96–76, set out as a note under section 206 of Title 42, The Public Health Welfare.

EFFECTIVE DATE OF 1963 AMENDMENT

Section 14 of Pub. L. 88–132 provided that: ''This Act [see Short Title of 1963 Amendment note set out under section 101 of this title] becomes effective on October 1, 1963.''

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), 551(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.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service, transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

## § 202. Pay grades: retired Coast Guard rear admirals (lower half)

An officer of the Coast Guard holding a permanent appointment in the grade of rear admiral (lower half) on the retired list, and who in time of war or national emergency has served satisfactorily on active duty for two years in that grade or in a higher grade, is entitled when on active duty to the basic pay of a rear admiral.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 454; Pub. L. 89–718, § 50, Nov. 2, 1966, 80 Stat. 1121; Pub. L. 90–130, § 3(1), Nov. 8, 1967, 81 Stat. 383; Pub. L. 90–179, § 7, Dec. 8, 1967, 81 Stat. 548; Pub. L. 90–623, § 3(2), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 92–451, § 2, Oct. 2, 1972, 86 Stat. 757; Pub. L. 96–342, title X, § 1004(a), Sept. 8, 1980, 94 Stat. 1120; Pub. L. 96–513, title IV, § 401, Dec. 12, 1980, 94 Stat. 2904; Pub. L. 97–417, § 3(a), Jan. 4, 1983, 96 Stat. 2087; Pub. L. 98–557, § 25(b)(2)(A), Oct. 30, 1984, 98 Stat. 2872; Pub. L. 99–145, title V, § 514(d)(2)(A), (B), Nov. 8, 1985, 99 Stat. 629.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 202(a) ..... | 10:5507(a). | [None.] |
| 202(b) ..... | 10:5507(b). | [None.] |
| 202(c) ..... | 10:5507(c). | [None.] |
| 202(d) ..... | 10:5507(d). | [None.] |
| | 14:462a (less applicability to retired pay). | [None.] |
| 202(e) ..... | 10:5507(e). | [None.] |
| 202(f) ..... | 14:462. | [None.] |
| 202(g) ..... | 10:5133(a) (last 13 words of last sentence). | [None.] |
| 202(h) ..... | 10:5064(b) (the words, ''pay, allowances,''). | [None.] |
| | 10:5111(b) (the words ''pay, allowances, and''). | [None.] |
| | 10:5133(a) (last 20 words of 1st sentence). | [None.] |
| | 10:5138(b) (the words ''pay, allowances, and''). | [None.] |
| | 10:5142 (last sentence). | [None.] |
| | 10:5145(c) (last 12 words). | [None.] |
| | 10:5148(b) (the words ''pay, allowances,''). | [None.] |
| | 10:5150(c) (the words, ''pay, allowances,''). | [None.] |
| 202(i) ..... | 10:5064(c) (last sentence). | [None.] |
| | 10:5134. | [None.] |
| | 10:5149(a) (last sentence). | [None.] |
| | 10:5150(d) (last sentence). | [None.] |
| | 10:5202(a) (last sentence). | [None.] |
| 202(j) ..... | 10:5062. | [None.] |

In subsections (a)–(j), the words ''and allowances'' are omitted as surplusage, since, under chapter 7 of this revised title, entitlement to allowances is based upon entitlement to basic pay.

In subsection (f), the words ''provided by law'', ''this or any other'', and ''for any reason'' are omitted as surplusage.

In subsection (g), the words ''Judge Advocate General of the Navy'' are inserted to reflect section 5148 of title 10.

In subsection (i), the last 12 words of section 5145(c) of title 10 are omitted as covered by section 5134 of title 10.

AMENDMENTS

1985—Pub. L. 99–145 substituted ''Pay grades: retired Coast Guard rear admirals (lower half)'' for ''Pay grade: retired Coast Guard commodores'' in section catchline, and substituted ''rear admiral (lower half)'' for ''commodore'' in text.

1984—Pub. L. 98–557 substituted ''Pay grade: retired Coast Guard commodores'' for ''Pay grades: commodores, retired list'' in section catchline.

1983—Pub. L. 97–417 substituted provision relating to the entitlement of retired list Coast Guard commodores to the basic pay of a retired rear admiral after two years emergency or wartime duty, for former subsecs. (a) and (b), which, respectively, related to the entitlement of retired Coast Guard rear admirals (otherwise entitled to the basic pay of retired list rear admirals) to the basic pay of an upper half rear admiral after two years emergency or wartime active duty, and provided that the number of active list Coast Guard rear admirals entitled to upper half pay be half the difference between the number of active list officers above captain and the number of officers serving above rear admiral, an odd number result to be placed in the upper

half, and no officer entitled to rear admiral pay to have it reduced solely because of a reduction in the number of rear admirals.

1980—Pub. L. 96–513, §401(b), substituted ''(upper half) of the Coast Guard'' for ''of upper half; officers holding certain positions in the Navy'' in section catchline.

Subsec. (a). Pub. L. 96–513, §401(a)(1), (2), redesignated subsec. (e) as (a) and struck out applicability to the Navy. Former subsec. (a), relating to entitlement of an officer not restricted in the performance of his duties in the Navy, was struck out.

Subsec. (b). Pub. L. 96–513, §401(a)(1), (3), redesignated subsec. (f) as (b). Former subsec. (b), relating to entitlement of an officer restricted in the performance of his duties in the Navy, was struck out.

Subsec. (c). Pub. L. 96–513, §401(a)(1), struck out subsec. (c) which related to entitlement of an officer in a staff corps in the Navy.

Subsec. (d). Pub. L. 96–513, §401(a)(1), struck out subsec. (d) which related to entitlement of an officer of the Naval Reserve.

Subsec. (e). Pub. L. 96–513, §401(a)(2), redesignated subsec. (e) as (a).

Subsec. (f). Pub. L. 96–513, §401(a)(3), redesignated subsec. (f) as (b).

Subsec. (g). Pub. L. 96–513, §401(a)(4), struck out subsec. (g) which related to entitlement of an officer of the Marine Corps.

Subsec. (h). Pub. L. 96–513, §401(a)(4), struck out subsec. (h) which related to entitlement of specific officers of the naval service.

Subsec. (i). Pub. L. 96–513, §401(a)(4), struck out subsec. (i) which related to entitlement of additional specific officers of the naval service.

Subsec. (j). Pub. L. 96–513, §401(a)(4), struck out subsec. (j) which related to entitlement of officer of the Navy serving as Deputy Comptroller of the Navy.

Subsec. (k). Pub. L. 96–513, §401(a)(4), struck out subsec. (k) which related to pay of a woman officer when initially appointed as a rear admiral and while serving as a rear admiral under such appointment or a subsequent appointment.

Pub. L. 96–342 substituted provisions respecting pay when initially appointed as a rear admiral and while serving as a rear admiral under such appointment or a subsequent appointment for provisions respecting pay while serving under an appointment under section 5767(c) of title 10.

Subsec. (*l*). Pub. L. 96–513, §401(a)(4), struck out subsec. (*l*) which related to entitlement of an officer of the Navy or Marine Corps serving as Assistant Judge Advocate General of the Navy.

1972—Subsec. (f). Pub. L. 92–451 struck out ''Except for those whose basic pay is otherwise specifically authorized by law,'' and substituted ''in grades above captain, less the number of officers serving in grades above rear admiral'', for ''in that grade'' in first sentence.

1968—Subsec. (*l*). Pub. L. 90–623 redesignated as subsec. (*l*) the subsection relating to basic pay of the Assistant Judge Advocate General of the Navy, formerly designated as subsec. (k).

1967—Subsec. (g). Pub. L. 90–179, §7(1), inserted ''or as Deputy Judge Advocate General of the Navy,''.

Subsecs. (h)(7), (8). Pub. L. 90–179, §7(2)(B), (C), added par. (7) and renumbered former par. (7) as par. (8).

Subsec. (i). Pub. L. 90–179, §7(3), struck out par. (3) which referred to an officer detailed as Assistant Judge Advocate of the Navy and renumbered pars. (4) and (5) as pars. (3) and (4), respectively.

Subsec. (k). Pub. L. 90–179, §7(4), added subsec. (k) relating to officer of the Navy or Marine Corps serving as Assistant Judge Advocate General of the Navy.

Pub. L. 90–130 added subsec. (k) relating to a woman officer appointed under section 5767(c) of title 10.

1966—Subsec. (g). Pub. L. 89–718, §50(1), struck out reference to service as Chief of the Bureau of Naval Weapons.

Subsec. (h). Pub. L. 89–718, §50(2), struck out par. (2) relating to Chief of Naval Materiel.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

Section 1004(b) of Pub. L. 96–342 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to basic pay payable for periods beginning on or after the date of the enactment of this Act [Sept 8, 1980].''

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92–451, set out as a note under section 290 of Title 14, Coast Guard.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change of law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

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), 551(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.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513, and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of Title 10, Armed Forces.

## §203. Rates

(a)(1) The rates of monthly basic pay for members of the uniformed services within each pay grade are those prescribed in accordance with section 1009 of this title or as otherwise prescribed by law.

(2) Notwithstanding the rates of basic pay in effect at any time as provided by law, the rates of basic pay payable for commissioned officers in pay grades O–7 through O–10 may not exceed the monthly equivalent of the rate of pay for level II of the Executive Schedule, and the rates of basic pay payable for all other officers and for enlisted members may not exceed the monthly equivalent of the rate of pay for level V of the Executive Schedule.

(b) While serving as a permanent professor at the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy or as a member of the permanent commissioned teaching staff at the United States Coast Guard Academy, an officer who has over 36 years of service computed under section 205 of this title is, in addition to the pay and allowances to which he is otherwise entitled under this title, entitled to additional pay in the

amount of $250 a month. This additional pay may not be used in the computation of retired pay.

(c) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to monthly cadet pay, or midshipman pay, at the monthly rate equal to 35 percent of the basic pay of a commissioned officer in the pay grade O–1 with less than two years of service.

(d)(1) The basic pay of a commissioned officer who is in pay grade O–1, O–2, or O–3 and who is credited with a total of over four years' service described in paragraph (2) shall be computed in the same manner as the basic pay of a commissioned officer in the same pay grade who has been credited with over four years' active service as an enlisted member.

(2) Service to be taken into account for purposes of computing basic pay under paragraph (1) is as follows:

(A) Active service as a warrant officer or as a warrant officer and an enlisted member.

(B) Service as a warrant officer, as an enlisted member, or as a warrant officer and an enlisted member, for which at least 1,460 points have been credited to the officer for the purposes of section 12732(a)(2) of title 10.

(e)(1) A student at the United States Military Academy Preparatory School, the United States Naval Academy Preparatory School, or the United States Air Force Academy Preparatory School who was selected to attend the preparatory school from civilian life is entitled to monthly student pay at the same rate as provided for cadets and midshipmen under subsection (c).

(2) A student at a preparatory school referred to in paragraph (1) who, at the time of the student's selection to attend the preparatory school, was an enlisted member of the uniformed services shall receive monthly basic pay at the rate prescribed for the student's pay grade and years of service as an enlisted member or at the rate provided for cadets and midshipmen under subsection (c), whichever is greater.

(3) The monthly student pay of a student described in paragraph (1) shall be treated for purposes of the accrual charge for the Department of Defense Military Retirement Fund established under section 1461 of title 10 in the same manner as monthly cadet pay or midshipman pay under subsection (c).

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 456; Pub. L. 88–132, § 2, Oct. 2, 1963, 77 Stat. 210; Pub. L. 88–422, § 1, Aug. 12, 1964, 78 Stat. 395; Pub. L. 89–132, § 1, Aug. 21, 1965, 79 Stat. 545; Pub. L. 89–501, title III, § 301, July 13, 1966, 80 Stat. 276; Pub. L. 90–207, § 1(1), Dec. 16, 1967, 81 Stat. 649; Pub. L. 91–278, § 3(2), June 12, 1970, 84 Stat. 306; Pub. L. 92–129, title II, § 201, Sept. 28, 1971, 85 Stat. 355; Pub. L. 92–455, § 3, Oct. 2, 1972, 86 Stat. 761; Pub. L. 93–419, § 2, Sept. 19, 1974, 88 Stat. 1152; Pub. L. 95–79, title III, § 302(a)(2), July 30, 1977, 91 Stat. 326; Pub. L. 96–343, § 6(b), Sept. 8, 1980, 94 Stat. 1127; Pub. L. 97–60, title I, § 102(a), Oct. 14, 1981, 95 Stat. 992; Pub. L. 98–94, title IX, § 902(a), Sept. 24, 1983, 97 Stat. 635; Pub. L. 99–145, title XIII, § 1303(b)(1), Nov. 8, 1985, 99 Stat. 740; Pub. L. 99–661, div. A, title VI, § 601(c), Nov. 14, 1986, 100 Stat. 3874; Pub. L. 100–180, div. A, title VI, § 601(c), Dec. 4, 1987, 101 Stat. 1092, as amended Pub. L. 100–202, § 110(b), Dec. 22, 1987, 101 Stat. 1329–436; Pub. L. 100–456, div. A, title VI, § 601(d), Sept. 29, 1988, 102 Stat. 1976; Pub. L. 101–189, div. A, title VI, § 601(c), Nov. 29, 1989, 103 Stat. 1445; Pub. L. 103–160, div. A, title VI, § 603(a), Nov. 30, 1993, 107 Stat. 1678; Pub. L. 103–337, div. A, title VI, § 601(c), Oct. 5, 1994, 108 Stat. 2779; Pub. L. 104–201, div. A, title VI, § 602, Sept. 23, 1996, 110 Stat. 2540; Pub. L. 105–261, div. A, title VI, § 602(a), Oct. 17, 1998, 112 Stat. 2037; Pub. L. 106–65, div. A, title VI, § 601(d), Oct. 5, 1999, 113 Stat. 648; Pub. L. 106–398, § 1 [[div. A], title VI, § 612(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–150; Pub. L. 107–107, div. A, title VI, § 602(a), Dec. 28, 2001, 115 Stat. 1132; Pub. L. 107–314, div. A, title X, § 1062(f)(1), Dec. 2, 2002, 116 Stat. 2651; Pub. L. 108–136, div. A, title VI, § 603, Nov. 24, 2003, 117 Stat. 1499; Pub. L. 109–163, div. A, title VI, §§ 602, 603, Jan. 6, 2006, 119 Stat. 3286; Pub. L. 109–364, div. A, title VI, § 602(a), Oct. 17, 2006, 120 Stat. 2245.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 203 ..... | 10:142(d) (as applicable to basic pay).<br>37:232(a). | [None.]<br>Oct. 12, 1949, ch. 681, § 201(a); May 19, 1952, ch. 310, § 1(a); restated Mar. 31, 1955, ch. 20, § 2(1); restated May 20, 1958, Pub. L. 85–422, § 1(1), 72 Stat. 122. |

Section 142(d) (as applicable to basic pay) of title 10 is omitted as superseded by footnote 1 of section 232(a) of existing title 37. The words ''pay grades are prescribed'' are omitted as covered by section 201 of this revised title. The words ''rates of monthly basic pay . . . are'' are substituted for the words ''monthly basic pay . . . is established''. The words ''according to cumulative years of service'' are omitted as covered by the words ''years of service computed under section 205'' appearing in each table.

REFERENCES IN TEXT

Levels II and V of the Executive Schedule, referred to in subsec. (a)(2), are set out in sections 5313 and 5316, respectively, of Title 5, Government Organization and Employees.

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109–364 substituted ''level II'' for ''level III''.

Subsec. (b). Pub. L. 109–163, § 602, inserted '', the United States Naval Academy,'' after ''Military Academy''.

Subsec. (e)(2). Pub. L. 109–163, § 603, substituted ''shall receive'' for ''on active duty for a period of more than 30 days shall continue to receive'' and inserted before the period at end ''or at the rate provided for cadets and midshipmen under subsection (c), whichever is greater''.

2003—Subsec. (d)(2)(A). Pub. L. 108–136, § 603(1), substituted ''enlisted member.'' for ''enlisted member, in the case of—

''(i) a commissioned officer on active duty who is paid from funds appropriated for active-duty personnel; or

''(ii) a commissioned officer on active Guard and Reserve duty.''

Subsec. (d)(2)(B). Pub. L. 108–136, §603(2), added subpar. (B) and struck out former subpar. (B) which read as follows: ''In the case of a commissioned officer (not referred to in subparagraph (A)(ii)) who is paid from funds appropriated for reserve personnel, service as a warrant officer, or as a warrant officer and enlisted member, for which at least 1,460 points have been credited to the officer for the purposes of section 12732(a)(2) of title 10.''

2002—Subsec. (d)(1). Pub. L. 107–314 amended Pub. L. 107–107, §602(a)(2). See 2001 Amendment note below.

2001—Subsec. (d). Pub. L. 107–107, §602(a)(1), designated existing provisions as par. (1).

Subsec. (d)(1). Pub. L. 107–107, §602(a)(2), as amended by Pub. L. 107–314, substituted ''service described in paragraph (2)'' for ''active service as a warrant officer or as a warrant officer and enlisted member''.

Subsec. (d)(2). Pub. L. 107–107, §602(a)(3), added par. (2).

2000—Subsec. (c). Pub. L. 106–398 substituted ''at the monthly rate equal to 35 percent of the basic pay of a commissioned officer in the pay grade O–1 with less than two years of service'' for ''at the rate of $600.00''.

1999—Subsec. (a). Pub. L. 106–65 designated existing provisions as par. (1) and added par. (2).

1998—Subsec. (c). Pub. L. 105–261 substituted ''$600.00'' for ''$558.04''.

1996—Subsec. (c). Pub. L. 104–201 designated par. (1) as entire subsec. (c) and struck out former par. (2) which read as follows: ''The rate of monthly cadet pay, or midshipman pay, under this subsection shall be adjusted in the manner and at the time the monthly basic pay of members of the uniformed services is adjusted under section 1009 of this title.''

1994—Subsec. (c)(1). Pub. L. 103–337 substituted ''$558.04'' for ''$543.90''.

1993—Subsec. (e). Pub. L. 103–160 added subsec. (e).

1989—Subsec. (c)(1). Pub. L. 101–189 substituted ''$543.90'' for ''$525''.

1988—Subsec. (c)(1). Pub. L. 100–456 substituted ''$525'' for ''$504.30''.

1987—Subsec. (c)(1). Pub. L. 100–180, as amended by Pub. L. 100–202, substituted ''$504.30'' for ''$494.40''.

1986—Subsec. (c)(1). Pub. L. 99–661 substituted ''$494.40'' for ''$461.40''.

1985—Subsec. (a). Pub. L. 99–145 inserted ''or as otherwise prescribed by law'' after ''this title''.

1983—Subsec. (d). Pub. L. 98–94 substituted ''the basic pay of a commissioned officer who is in pay grade O–1, O–2, or O–3 and who is credited with a total of over four years' active service as a warrant officer or as a warrant officer and enlisted member shall be computed in the same manner as the basic pay of a commissioned officer in the same pay grade who has been credited with over four years' active service as an enlisted member'' for ''the basic pay of commissioned officers who are in pay grades O–1, O–2, and O–3 and who are credited with over four years' active service as warrant officers shall be computed in the same manner as the basic pay of commissioned officers in the same pay grades who have been credited with over four years' active service as enlisted members''.

1981—Subsec. (c)(1). Pub. L. 97–60 substituted ''$461.40'' for ''$313.20''.

1980—Subsec. (d). Pub. L. 96–343 added subsec. (d).

1977—Subsec. (c). Pub. L. 95–79 added subsec. (c).

1974—Subsec. (a). Pub. L. 93–419 substituted reference to section 1009 of this title for provisions setting out in tables the rates of monthly basic pay for members of the uniformed services.

1972—Subsec. (a). Pub. L. 92–455 substituted in footnote 1 of the enlisted members pay table ''Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard,'' for ''Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps,''.

1971—Subsec. (a). Pub. L. 92–129 increased rates of monthly basic pay for all personnel.

1970—Subsec. (b). Pub. L. 91–278 provided for entitlement to additional pay for service as a member of permanent commissioned teaching staff at the United States Coast Guard Academy.

1967—Subsec. (a). Pub. L. 90–207 increased the rates of monthly basic pay for all personnel by 5.6 percent and provided a special basic pay rate of $844.20 per month for the senior noncommissioned officer position of each military service regardless of years of service completed for pay purposes.

1966—Subsec. (a). Pub. L. 89–501 increased pay of all personnel by 3.2 percent.

1965—Subsec. (a). Pub. L. 89–132 increased pay of commissioned officers with less than 2 years of service an average of 22 percent, of commissioned officers and warrant officers with over 2 years of service an average of 6 percent, enlisted men with 2 years of service an average of 17.3 percent, and enlisted men with over 2 years of service an average of 11 percent.

1964—Subsec. (a). Pub. L. 88–422 increased pay of all officers, warrant officers and enlisted personnel with over 2 years of service by 2.5 percent, and the pay of commissioned and warrant officers with under 2 years of service by 8.5 percent.

1963—Subsec. (a). Pub. L. 88–132 designated existing provisions as subsec. (a), substituted new basic pay tables and increased from $1,875 to $1,970 the basic pay referred to in footnote 1 of the Commissioned officers' table and substituted ''cumulative years of service'' for ''years of service''.

Subsec. (b). Pub. L. 88–132 added subsec. (b).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title VI, §602(b), Oct. 17, 2006, 120 Stat. 2245, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2007, and shall apply with respect to months beginning on or after that date.''

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title X, §1062(f), Dec. 2, 2002, 116 Stat. 2651, provided that the amendment made by section 1062(f)(1) is effective as of Dec. 28, 2001, and as if included in Pub. L. 107–107 as enacted.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VI, §602(b), Dec. 28, 2001, 115 Stat. 1133, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to months beginning on or after the date of the enactment of this Act [Dec. 28, 2001].''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title VI, §612(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151, provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 209 of this title] shall take effect October 1, 2001.''

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, §601(d), Oct. 5, 1999, 113 Stat. 648, provided that the amendment made by section 601(d) is effective Jan. 1, 2000.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title VI, §602(b), Oct. 17, 1998, 112 Stat. 2037, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1999.''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 601(c) of Pub. L. 103–337 provided in part that the amendment made by that section is effective Jan. 1, 1995.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 603(b) of Pub. L. 103–160 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to students entering the

United States Military Academy Preparatory School, the United States Naval Academy Preparatory School, or the United States Air Force Academy Preparatory School on or after the date of the enactment of this Act [Nov. 30, 1993].''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 601(c) of Pub. L. 101–189 provided that the amendment made by that section is effective Jan. 1, 1990.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 601(d) of Pub. L. 100–456 provided that the amendment made by that section is effective Jan. 1, 1989.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 601(c) of Pub. L. 100–180, as amended by Pub. L. 100–202, § 110(b), Dec. 22, 1987, 101 Stat. 1329–436, provided that the amendment made by that section is effective Jan. 1, 1988.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 601(c) of Pub. L. 99–661 provided that the amendment made by that section is effective Jan. 1, 1987.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 902(b) of Pub. L. 98–94 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1983.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 102(b) of Pub. L. 97–60 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1981.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–343 effective with respect to periods for which pay and allowances are payable which begin after Aug. 31, 1980, see section 6(c) of Pub. L. 96–343, set out as a note under section 907 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–419 effective Sept. 19, 1974, see section 9 of Pub. L. 93–419, set out as an Effective Date note under section 1009 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–129 effective Oct. 1, 1971, see section 209 of Pub. L. 92–129, set out as an Effective Date note under section 302a of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 7 of Pub. L. 90–207 provided that: ''This Act [enacting sections 311 and 411a of this title, amending this section, sections 403 and 407 of this title, sections 1401 to 1402, 1436, 3991, 6326, 6330, and 8991 of Title 10, Armed Forces, and section 2203 of Appendix to Title 50, War and National Defense, and enacting provisions set out as notes under this section and sections 1401 and 1401a of Title 10] becomes effective as of October 1, 1967. However, a member, except as provided in section 6 of this Act [set out as a note under section 1401 of Title 10], is not entitled to any increases in his pay and allowances under section 1 [enacting section 311 of this title and amending this section and sections 403 and 407 of this title] or section 4 [amending section 2203 of Appendix to Title 50] for any period before the date of enactment of this Act [Dec. 16, 1967] unless he is on active duty on the date of enactment of this Act. In addition, a member of the National Guard or a member of a Reserve Component of a uniformed service who is in a drill pay status on the effective date of this Act [Oct. 1, 1967] is entitled to have any compensation to which he has become entitled under section 206 of title 37, United States Code, after September 30, 1967, computed under the rates of basic pay prescribed by section 1(1) of this Act [amending this section].''

EFFECTIVE DATE OF 1966 AMENDMENT

Section 304 of Pub. L. 89–501 provided that: ''This title [amending this section and enacting provisions set out as notes under this section and section 1401 of Title 10, Armed Forces] becomes effective July 1, 1966, or the first day of the month in which increases in the rates of compensation under the General Schedule of pay provided in section 603(b) of the Classification Act of 1949, as amended (5 U.S.C. 1113(b)) [see now section 5332(a) of Title 5, Government Organization and Employees], become effective pursuant to the Federal Employees Salary Act of 1966 [Pub. L. 89–504, July 18, 1966, 80 Stat. 288] whichever is later.''

EFFECTIVE DATE OF 1965 AMENDMENT

Section 10 of Pub. L. 89–132 provided that: ''This Act [enacting section 1008 of this title and section 1040 of Title 10, Armed Forces, amending this section, sections 308 and 310 of this title, and sections 1401 and 1401a of Title 10, and enacting provisions set out as notes under section 1401 of Title 10] becomes effective on the first day of the first calendar month beginning after the date of enactment of this Act [Aug. 21, 1965].''

EFFECTIVE DATE OF 1964 AMENDMENT

Section 4 of Pub. L. 88–422 provided that: ''This Act [amending this section and enacting provisions set out as notes under this section] becomes effective on the first day of the first calendar month beginning after the date of enactment of this Act [Aug. 12, 1964].''

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of this title.

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), 551(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.

RATE OF PAY INCREASES FOR CADETS, MIDSHIPMEN, AND APPLICANTS FOR MEMBERSHIP IN SENIOR RESERVE OFFICERS' TRAINING CORPS

Section 302(b), (c) of Pub. L. 95–79 provided that:

''(b) Any cadet or midshipman who, on the date of enactment of this Act [July 30, 1977], or on any date thereafter, is—

''(1) admitted to the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy, as the case may be, or

''(2) enrolled in the Senior Reserve Officers' Training Corps program and attending a field training encampment or practice cruise for which he is entitled to pay under section 209(c) of title 37, United States Code,

shall, if otherwise entitled, receive the rate of pay prescribed by section 201(c) of title 37, United States Code, as in effect on the day before the date of enactment of this Act, [July 30, 1977], until the rate of pay authorized by section 203(c) of such title, as added by the amendments made by subsection (a) of this section, is equal to or greater than the rate prescribed by section 201(c) of such title, as in effect on the day before the date of enactment of this Act. Thereafter, the rate of pay of

such person shall be as prescribed by section 203(c) of such title, as added by the amendments made by subsection (a) of this section, or section 209(c) of such title, as amended by subsection (a) of this section, as appropriate.

''(c) A person who, on the date of enactment of this Act [July 30, 1977], is an applicant for membership in the Senior Reserve Officers' Training Corps and who, in order to satisfy the requirement of section 2104(b)(6)(B) of title 10, United States Code, is attending or will attend one of the field training encampments or practice cruises in a field training or practice cruise period which is in progress on the date of enactment of this Act, is entitled to continue to receive pay at the rate prescribed by such section as in effect on the day before the date of enactment of this Act while such person is attending such field training or practice cruise period in progress on the date of enactment of this Act. Thereafter, the entitlement of such person shall be as prescribed in subsection (b) of this section.''

MASTER CHIEF PETTY OFFICER OF THE COAST GUARD; PAY RECOVERY

Section 5 of Pub. L. 92–455 provided that: ''An enlisted member of the Coast Guard who has served as the master chief petty officer of the Coast Guard before enactment of this Act [Oct. 2, 1972] is entitled to recover the differences between the basic pay (including proficiency pay) received while so serving and the amount he would have received if his basic pay had been the same as the basic pay of the senior enlisted advisers of the other Armed Forces from the time of his original appointment to serve as the master chief petty officer of the Coast Guard.''

REPORT ON EFFECTIVENESS OF 1971 PAY INCREASES IN INCREASING VOLUNTEERS

Section 211 of Pub. L. 92–129 directed Secretary of Defense to report to Chairman of Armed Services Committees of Senate and of House of Representatives not later than June 30, 1972, on effectiveness of provisions of title II of Pub. L. 92–129, authorizing pay increases for uniformed services, in increasing number of volunteers enlisting for active duty in Armed Forces of United States.

PAY CONTINUATION

Section 210 of Pub. L. 92–129 provided that: ''The enactment of this title [enacting sections 302a, 308a, and 428 of this title and amending this section, section 403 of this title, and sections 2203, 2204, and 2207 of Title 50 Appendix, War and National Defense] shall not reduce the pay to which any member of the uniformed services was entitled on June 30, 1971.''

Section 302 of Pub. L. 89–501 provided that: ''Notwithstanding any other provision of law, a member of an armed force who was entitled to pay and allowances under any of the following provisions of law on the day before the effective date of this title [see Effective Date of 1966 Amendment note above] shall continue to receive the pay and allowances to which he was entitled on that day plus an increase of 3.2 per centum in the total of his pay and allowances:

''(1) The Act of March 23, 1946, chapter 112 (60 Stat. 59).

''(2) The Act of June 26, 1948, chapter 677 (62 Stat. 1052).

''(3) The Act of September 18, 1950, chapter 952 (64 Stat. A224).

After the effective date of this title, no increase in the basic pay or any of the allowances of members of the uniformed services on active duty shall increase the basic pay or any of the allowances of a member covered by the preceding provisions of this section.''

Section 8 of Pub. L. 89–132, as amended by Pub. L. 102–83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: ''The enactment of this Act [see Effective Date of 1965 Amendment note above] does not reduce—

''(1) the rate of dependency and indemnity compensation under section 1311 of title 38, United States Code, that any person was receiving on the day before the effective date of this Act [Sept. 1, 1965] or which thereafter becomes payable for that day by reason of a subsequent determination; or

''(2) the basic pay or the retired pay or retainer pay to which a member or former member of a uniformed service was entitled to on the day before the effective date of this Act [Sept. 1, 1965].''

Section 2 of Pub. L. 88–422 provided that: ''Notwithstanding any other provision of law, a member of an armed force who was entitled to pay and allowances under any of the following provisions of law on the day before the effective date of this Act [Sept. 1, 1964] shall continue to receive the pay and allowances to which he was entitled on that day:

''(1) The Act of March 23, 1946, chapter 112 (60 Stat. 59).

''(2) The Act of June 26, 1948, chapter 677 (62 Stat. 1052).

''(3) The Act of September 18, 1950, chapter 952 (64 Stat. A224).''

Section 3 of Pub. L. 88–422 provided that: ''The enactment of this Act [amending this section, and enacting provisions set out as notes under this section] does not reduce—

''(1) the rate of dependency and indemnity compensation under section 411 of title 38, United States Code, that any person was receiving on the day before the effective date of this Act [Sept. 1, 1964] or which thereafter becomes payable for that day by reason of a subsequent determination; or

''(2) the basic pay or the retired pay or retainer pay to which a member or former member of a uniformed service was entitled on the day before the effective date of this Act.''

Section 13(b) of Pub. L. 88–132 provided that: ''The enactment of this Act [see Short Title of 1963 Amendment note set out under section 101 of this title] does not reduce the basic pay or the retired pay or retainer pay to which a member or former member of a uniformed service was entitled on the day before the effective date of this Act [Oct. 1, 1963].''

PERIODIC PAY ADJUSTMENTS IN MONTHLY BASIC PAY

Section 8 of Pub. L. 90–207, which provided for adjustment of regular compensation whenever the General Schedule of compensation for federal classified employees was adjusted upwards, was repealed by Pub. L. 93–419, §8, Sept. 19, 1974, 88 Stat. 1153.

ADJUSTMENT OF PAY RATES

For adjustment of monthly pay rates under subsec. (c) of this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of Title 5, Government Organization and Employees.

Prior to amendment of this section by Pub. L. 93–419, pay rates were adjusted by the following executive orders:

Ex. Ord. No. 11740, Oct. 3, 1973, 38 F.R. 27585, provided for adjustment of pay rates effective Oct. 1, 1973.

Ex. Ord. No. 11692, Dec. 15, 1972, 37 F.R. 27609, as amended by Ex. Ord. No. 11778, Apr. 12, 1974, 39 F.R. 13521, provided for adjustment of pay rates effective Oct. 1, 1972.

Ex. Ord. No. 11638, Dec. 22, 1971, 36 F.R. 24913, provided for adjustment of pay rates effective Jan. 1, 1972.

Ex. Ord. No. 11577, Jan. 8, 1971, 36 F.R. 349, provided for adjustment of pay rates effective Jan. 1, 1971.

Ex. Ord. No. 11525, Apr. 15, 1970, 35 F.R. 6251, provided for adjustment of pay rates effective Jan. 1, 1970.

Ex. Ord. No. 11475, June 16, 1969, 34 F.R. 9609, provided for adjustment of pay rates effective July 1, 1969.

Ex. Ord. No. 11414, June 11, 1968, 33 F.R. 8645, provided for adjustment of pay rates effective July 1, 1968.

**§ 204. Entitlement**

(a) The following persons are entitled to the basic pay of the pay grade to which assigned or distributed, in accordance with their years of service computed under section 205 of this title—

(1) a member of a uniformed service who is on active duty; and

(2) a member of a uniformed service, or a member of the National Guard who is not a Reserve of the Army or the Air Force, who is participating in full-time training, training duty with pay, or other full-time duty, provided by law, including participation in exercises or the performance of duty under section 10302, 10305, 10502, or 12402 of title 10, or section 503, 504, 505, or 506 of title 32.

(b) For the purposes of subsection (a), under regulations prescribed by the President, the time necessary for a member of a uniformed service who is called or ordered to active duty for a period of more than 30 days to travel from his home to his first duty station and from his last duty station to his home, by the mode of transportation authorized in his call or orders, is considered active duty.

(c) A member of the National Guard who is called into Federal service for a period of 30 days or less is entitled to basic pay from the date when he appears at the place of company rendezvous. However, this subsection does not authorize any expenditure before arriving at the place of rendezvous that is not authorized by law to be paid after arrival at that place.

(d) Full-time training, training duty with pay, or other full-time duty performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in his status as a member of the National Guard, is active duty for the purposes of this section.

(e) A payment accruing under any law to a member of a uniformed service incident to his release from active duty or for his return home incident to that release may be paid to him before his departure from his last duty station, whether or not he actually performs the travel involved. If a member receives a payment under this subsection but dies before that payment would have been made but for this subsection, no part of that payment may be recovered by the United States.

(f) A cadet of the United States Military Academy or the United States Air Force Academy, or a midshipman of the United States Naval Academy, who, upon graduation from one of those academies, is appointed as a second lieutenant of the Army or the Air Force is entitled to the basic pay of pay grade O–1 beginning upon the date of his graduation.

(g)(1) A member of a reserve component of a uniformed service is entitled to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member is physically disabled as the result of an injury, illness, or disease incurred or aggravated—

(A) in line of duty while performing active duty;

(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service);

(C) while traveling directly to or from such duty or training;

(D) in line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training; or

(E) in line of duty while—

(i) serving on funeral honors duty under section 12503 of title 10 or section 115 of title 32;

(ii) traveling to or from the place at which the duty was to be performed; or

(iii) remaining overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence.

(2) In the case of a member who receives earned income from nonmilitary employment or self-employment performed in any month in which the member is otherwise entitled to pay and allowances under paragraph (1), the total pay and allowances shall be reduced by the amount of such income. In calculating earned income for the purpose of the preceding sentence, income from an income protection plan, vacation pay, or sick leave which the member elects to receive shall be considered.

(h)(1) A member of a reserve component of a uniformed service who is physically able to perform his military duties, is entitled, upon request, to a portion of the monthly pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for each month for which the member demonstrates a loss of earned income from nonmilitary employment or self-employment as a result of an injury, illness, or disease incurred or aggravated—

(A) in line of duty while performing active duty;

(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service);

(C) while traveling directly to or from such duty or training;

(D) in line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inac-

tive-duty training, at or in the vicinity of the site of the inactive-duty training; or

(E) in line of duty while—

(i) serving on funeral honors duty under section 12503 of title 10 or section 115 of title 32;

(ii) traveling to or from the place at which the duty was to be performed; or

(iii) remaining overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence.

(2) The monthly entitlement may not exceed the member's demonstrated loss of earned income from nonmilitary or self-employment. In calculating such loss of income, income from an income protection plan, vacation pay, or sick leave which the member elects to receive shall be considered.

(i)(1) The total amount of pay and allowances paid under subsections (g) and (h) and compensation paid under section 206(a) of this title for any period may not exceed the amount of pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for that period.

(2) Pay and allowances may not be paid under subsection (g) or (h) for a period of more than six months. The Secretary concerned may extend such period in any case if the Secretary determines that it is in the interests of fairness and equity to do so.

(3) A member is not entitled to benefits under subsection (g) or (h) if the injury, illness, disease, or aggravation of an injury, illness, or disease is the result of the gross negligence or misconduct of the member.

(4) Regulations with respect to procedures for paying pay and allowances under subsections (g) and (h) shall be prescribed—

(A) by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary; and

(B) by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(j) A member of the uniformed services who is entitled to medical or dental care under section 1074a of title 10 is entitled to travel and transportation allowances, or a monetary allowance in place thereof, for necessary travel incident to such care, and return to his home upon discharge from treatment.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 457; Pub. L. 96–513, title V, §506(4), Dec. 12, 1980, 94 Stat. 2919; Pub. L. 98–94, title X, §1012(b), Sept. 24, 1983, 97 Stat. 665; Pub. L. 99–433, title V, §531(b), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 99–661, div. A, title VI, §604(b), Nov. 14, 1986, 100 Stat. 3875; Pub. L. 100–456, div. A, title VI, §631(a), (b), Sept. 29, 1988, 102 Stat. 1984, 1985; Pub. L. 102–25, title VII, §701(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103–337, div. A, title XVI, §1676(b)(1), Oct. 5, 1994, 108 Stat. 3019; Pub. L. 104–106, div. A, title VII, §702(c), Feb. 10, 1996, 110 Stat. 371; Pub. L. 105–85, div. A, title V, §513(f), Nov. 18, 1997, 111 Stat. 1732; Pub. L. 106–398, §1 [[div. A], title VI, §665(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–168; Pub. L. 107–107, div. A, title V, §513(d), Dec. 28, 2001, 115 Stat. 1093; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 204(a) ..... | 37:232(d) (1st sentence, less provisos). | Oct. 12, 1949, ch. 681, §201(d), 63 Stat. 807; redesignated as ''(d)'' by Mar. 31, 1955, ch. 20, §2(2), 69 Stat. 19; Aug. 10, 1956, ch. 1041, §20(a), 70A Stat. 627; May 20, 1958, Pub. L. 85–422, §1(4), 72 Stat. 124. |
| 204(b) ..... | 37:232(d) (1st proviso of 1st sentence). | |
| 204(c) ..... | 37:232(d) (2d proviso of 1st sentence). | |
| 204(d) ..... | 37:232(d) (last proviso of 1st sentence). | |
| 204(e) ..... | 37:232(d) (less 1st sentence). | |
| 204(f) ..... | 37:308a. | Dec. 20, 1886, ch. 2, 24 Stat. 351; June 2, 1950, ch. 217, §2, 64 Stat. 195. |
| 204(g) ..... | 10:3687 (as applicable to pay and allowances). | [None.] |
| | 10:8687 (as applicable to pay and allowances). | [None.] |
| 204(h) ..... | 32:318 (as applicable to pay and allowances). | [None.] |
| 204(i) ..... | 10:6148(a) (as applicable to pay and allowances). | [None.] |
| | 10:6148(b) (as applicable to pay and allowances). | [None.] |

[The citations to section 232(d) of existing title 37, above, are to the language of subsection (d) set forth in the codification note under section 232, rather than that erroneously set forth in the text of the section.]

In subsection (a), the last 27 words are substituted for the words ''or performance of the duties provided for by sections 5, 81, 94, 97 and 99 of the National Defense Act, as amended,'' to reflect the current citations. So much of the introductory clause as follows the exception is substituted for the 36 words preceding 1st proviso of 1st sentence of section 232(d) of existing title 37. The words ''on the active list'' are omitted as covered by the words ''active duty'' as defined in section 101(18) of this revised title. The words ''(provided for or authorized in the National Defense Act, as amended, or in the Naval Reserve Act of 1938, as amended)'' are omitted as covered by the words ''provided by law''.

In subsection (b), the words ''For the purposes of subsection (a)'' are inserted for clarity. The words ''active duty for a period of more than 30 days'' are substituted for the words ''extended active duty in excess of thirty days''. The words ''call or'' are inserted to conform to the words ''called or''.

In subsection (c), the words ''and allowances'' are omitted, since, under chapter 7 of this revised title, entitlement to allowances depends upon entitlement to basic pay. The last sentence is substituted for the last 38 words of the 2d proviso of the 1st sentence of section 232(d) of existing title 37.

In subsection (d), the words ''for the purposes of this section'' are substituted for the words ''and which entitles them to receive basic pay . . . in the service of the United States''. The words ''pursuant to this section'' are omitted as surplusage.

In subsection (e), the words ''or active duty for training'' are omitted as covered by the words ''active duty'' as defined in section 101(18) of this revised title.

In subsection (f), the words ''is appointed'' are substituted for the words ''has been or may be commissioned''. The words ''under the laws appointing such graduates to the Army'' and the last 16 words of section 308a of existing title 37 are omitted as surplusage. The words ''to the date of his acceptance of and qualification under his commission'' are omitted, since the member concerned would continue to be entitled to basic pay after that acceptance and qualification. The words ''or the United States Naval Academy'' are inserted to reflect section 541 of title 10, under which graduates of that Academy may be appointed in the Army or the Air Force.

In subsection (i), the inclusion of the Coast Guard Reserve is based on the authority contained in section 755(c) of title 14.

AMENDMENTS

2002—Subsec. (i)(4)(B). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

2001—Subsecs. (g)(1)(D), (h)(1)(D). Pub. L. 107–107 struck out '', if the site is outside reasonable commuting distance from the member's residence'' before semicolon.

2000—Subsec. (g)(1)(E). Pub. L. 106–398, § 1 [[div. A], title VI, § 665(a)(1)], added subpar. (E).

Subsec. (h)(1)(E). Pub. L. 106–398, § 1 [[div. A], title VI, § 665(a)(2)], added subpar. (E).

1997—Subsecs. (g)(1)(D), (h)(1)(D). Pub. L. 105–85 inserted ''while remaining overnight immediately before the commencement of inactive-duty training, or'' after ''in line of duty''.

1996—Subsec. (g)(1)(D). Pub. L. 104–106, § 702(c)(1), added subpar. (D).

Subsec. (h)(1)(D). Pub. L. 104–106, § 702(c)(2), added subpar. (D).

1994—Subsec. (a)(2). Pub. L. 103–337 substituted ''10302, 10305, 10502, or 12402'' for ''3021, 3496, 3541, 8021, 8496, or 8541''.

1991—Subsec. (b). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

1988—Subsec. (g). Pub. L. 100–456, § 631(a), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''A member of a reserve component of a uniformed service is entitled to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member—

''(1) is called or ordered to active duty for a period of more than 30 days; and

''(2) is physically disabled in line of duty from injury, illness, or disease.''

Subsec. (h). Pub. L. 100–456, § 631(a), amended subsec. (h) generally, substituting pars. (1) and (2) for former pars. (1) to (5).

Subsecs. (i), (j). Pub. L. 100–456, § 631(b), added subsec. (i) and redesignated former subsec. (i) as (j).

1986—Subsec. (a)(2). Pub. L. 99–433 substituted ''3021'' and ''8021'' for ''3033'' and ''8033'', respectively.

Subsec. (g). Pub. L. 99–661, § 604(b)(1), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''A member of the Army or the Air Force (other than of the Regular Army or the Regular Air Force) is entitled to the pay and allowances provided by law or regulation for a member of the Regular Army or the Regular Air Force, as the case may be, of corresponding grade and length of service, whenever—

''(1) he is called or ordered to active duty (other than for training under section 270(b) of title 10) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

''(2) he is called or ordered to active duty, or to perform inactive-duty training, for any period of time, and is disabled in line of duty from injury while so employed.''

Subsec. (h). Pub. L. 99–661, § 604(b)(1), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''A member of the National Guard is entitled to the pay and allowances provided by law or regulation for a member of the Regular Army or the Regular Air Force, as the case may be, of corresponding grade and length of service, whenever he is called or ordered to perform training under section 502, 503, 504, or 505 of title 32—

''(1) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

''(2) for any period of time, and is disabled in line of duty from injury while so employed.''

Subsecs. (i), (j). Pub. L. 99–661, § 604(b)(2), (3), redesignated subsec. (j) as (i) and struck out former subsec. (i) which read as follows: ''A member of the Naval Reserve, Fleet Reserve, Marine Corps Reserve, Fleet Marine Corps Reserve, or Coast Guard Reserve is entitled to the pay and allowances provided by law or regulation for a member of the Regular Navy, Regular Marine Corps, or Regular Coast Guard, as the case may be, of corresponding grade and length of service, under the same conditions as those described in clauses (1) and (2) of subsection (g) of this section.''

1983—Subsec. (j). Pub. L. 98–94 added subsec. (j).

1980—Subsec. (a). Pub. L. 96–513 substituted ''The following persons'' for ''Except for members covered by section 202(i) of this title, the following persons''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title VI, § 665(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–169, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to months beginning on or after the date of the enactment of this Act [Oct. 30, 2000].''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 631(d) of Pub. L. 100–456 provided that: ''The amendments made by this section [amending this section and section 206 of this title] shall apply with respect to persons who, after the date of enactment of this Act [Sept. 29, 1988], incur or aggravate an injury, illness, or disease, or who die as the result of incurring or aggravating an injury, illness, or disease.''

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 applicable only in cases of injuries incurred or aggravated on or after Sept. 24, 1983, see section 1012(c) of Pub. L. 98–94, set out as an Effective Date note under section 1074a of Title 10, Armed Forces.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

## § 205. Computation: service creditable

(a) Subject to subsections (b) and (c), for the purpose of computing the basic pay of a member of a uniformed service, his years of service are computed by adding—

(1) all periods of active service as an officer, Army field clerk, flight officer, aviation midshipman, or enlisted member of a uniformed service;

(2) all periods during which he was enlisted or held an appointment as an officer, Army field clerk, or flight officer of—

(A) a regular component of a uniformed service;

(B) the Regular Army Reserve;

(C) the Organized Militia before July 1, 1916;

(D) the National Guard;

(E) the National Guard Reserve;

(F) a reserve component of a uniformed service;

(G) the Naval Militia;

(H) the National Naval Volunteers;

(I) the Navy Reserve Force;

(J) the Army without specification of component;

(K) the Air Force without specification of component;

(L) the Marine Corps Reserve Force;

(M) the Philippine Scouts; or

(N) the Philippine Constabulary;

(3) for a commissioned officer in service on June 30, 1922, all service that was then counted in computing longevity pay and all service as a contract surgeon serving full time;

(4) all periods during which he held an appointment as a nurse, reserve nurse, or commissioned officer in the Army Nurse Corps as it existed at any time before April 16, 1947, the Navy Nurse Corps as it existed at any time before April 16, 1947, or the Public Health Service, or a reserve component of any of them;

(5) all periods during which he was a deck officer or junior engineer in the National Oceanic and Atmospheric Administration;

(6) all periods that, under law in effect on January 10, 1962, were authorized to be credited in computing basic pay; and

(7) all periods while—

(A) on a temporary disability retired list, honorary retired list, or a retired list of a uniformed service;

(B) entitled to retired pay, retirement pay, or retainer pay, from a uniformed service or the Department of Veterans Affairs, as a member of the Fleet Reserve or the Fleet Marine Corps Reserve; or

(C) a member of the Honorary Reserve of the Officers' Reserve Corps or the Organized Reserve Corps.

Except for any period of active service described in clause (1) and except as provided by subsections (b), (c), and (d) of section 1402 and subsections (b), (c), and (d) of section 1402a of title 10, a period of service described in clauses (2) through (7) that is performed while on a retired list, in a retired status, or in the Fleet Reserve or Fleet Marine Corps Reserve, may not be included to increase retired pay, retirement pay, or retainer pay. For the purpose of clause (5), periods during which a member was a deck officer or junior engineer in the National Oceanic and Atmospheric Administration includes periods during which a member was a deck officer or junior engineer in the Environmental Science Services Administration or the Coast and Geodetic Survey.

(b) A period of time may not be counted more than once under subsection (a).

(c) The periods of service authorized to be counted under subsection (a) shall, under regulations prescribed by the Secretary concerned, include service performed by a member of a uniformed service before he became 18 years of age.

(d) Notwithstanding subsection (a), a commissioned officer may not count in computing basic pay a period of service after October 13, 1964, that the officer performed concurrently as a member of the Senior Reserve Officers' Training Corps, except for service that the officer performed on or after August 1, 1979, other than for training as an enlisted member of the Selected Reserve may be so counted.

(e)(1) Notwithstanding subsection (a), a period of service described in paragraph (2) of a member who enlists in a reserve component may not be counted under this section.

(2) Paragraph (1) applies to the following service:

(A) Service performed while a member of a reserve component under an enlistment under section 12103(b) or 12103(d) of title 10 before the member begins service on active duty under such section (including a period of active duty for training) unless the member performs inactive-duty training before beginning service on active duty or active duty for training;

(B) Service performed while a member of a reserve component under an enlistment under section 513 of title 10 (other than a period of active duty to which the member is ordered under chapter 1209 of title 10 or another provision of law).

(f) Notwithstanding subsection (a), the periods of service of a commissioned officer appointed under section 12203 of title 10 after receiving financial assistance under section 16401 of such title that are counted under this section may not include a period of service after January 1, 2000, that the officer performed concurrently as an enlisted member of the Marine Corps Platoon Leaders Class program and the Marine Corps Reserve, except that service after that date that the officer performed before commissioning (concurrently with the period of service as a member of the Marine Corps Platoon Leaders Class program) as an enlisted member on active duty or as a member of the Selected Reserve may be so counted.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 458; Pub. L. 88–647, title II, §202(1), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89–718, §49(a)(1), (b), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 90–623, §3(3), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 93–545, §2, Dec. 26, 1974, 88 Stat. 1741; Pub. L. 96–342, title VIII, §813(b)(3)(D), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96–513, title IV, §402, title V, §516(3), Dec. 12, 1980, 94 Stat. 2904, 2937; Pub. L. 98–525, title VI, §607(a), Oct. 19, 1984, 98 Stat. 2538; Pub. L. 101–189, div. A, title V, §501(c), Nov. 29, 1989, 103 Stat. 1435; Pub. L. 102–25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title V, §517(b), Oct. 23, 1992, 106 Stat. 2407; Pub. L. 103–35, title II, §204(a)(1), May 31, 1993, 107 Stat. 102; Pub. L. 103–337, div. A, title XVI, §1676(b)(2), Oct. 5, 1994, 108 Stat. 3019; Pub. L. 104–201, div. A, title V, §507(b), Sept. 23, 1996, 110 Stat. 2512; Pub. L. 105–85, div. A, title X, §1073(b), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 106–65, div. A, title V, §551(c), Oct. 5, 1999, 113 Stat. 614; Pub. L. 106–398, §1 [[div. A], title V, §533(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–111; Pub. L. 109–163, div. A, title V, §515(d)(1)(C), Jan. 6, 2006, 119 Stat. 3236.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 205(a) ..... | 37:233(a) (less words after 2d semicolon of clause (7)). | Oct. 12, 1949, ch. 681, § 202 (less proviso of (d)), 63 Stat. 807; Apr. 30, 1956, ch. 223, § 2, 70 Stat. 121. |
| | 37:233(b). | |
| 205(b) ..... | 37:233(a)(7) (words between 2d and 3d semicolons). | |
| | 37:233(d) (less proviso). | |
| 205(c) ..... | 37:233(a)(7) (words after 3d semicolon). | |
| 205(d) ..... | 37:233(c). | |

In subsection (a), the introductory clause is substituted for section 233(a) (introductory clause) of existing title 37. In clauses (1) and (2), the word ''officer'' is substituted for the words ''commissioned officer, commissioned warrant officer, warrant officer'' to conform to the definition of ''officer'' in section 101(11) of this revised title. In clause (1), the words ''Regular or Reserve component'' are omitted, since, under the definition of ''reserve component'' in section 102(k) of the source statute, those words are defined to include members without component status. Together, these categories compose the entire structure of any uniformed service. In clause (2)(F), the words ''a reserve component of a uniformed service'' are substituted for the words ''the National Guard of the United States, or in the Organized Reserve Corps, or in the Officers' Reserve Corps, or in the Enlisted Reserve Corps, or in the Medical Reserve Corps, or in the Medical Reserve Corps of the Navy, or in the Dental Reserve Corps of the Navy . . . or in the Naval Reserve . . . or in the Air National Guard of the United States, or in the Air Force Reserve, or in the officers' section of the Air Force Reserve, or in the enlisted section of the Air Force Reserve, or in the Air Corps Reserve . . . or in the Marine Corps Reserve, or in the Coast Guard Reserve, or in the Reserve Corps of the Public Health Service,'' since all of the named organizations were or are reserve components. In clause (4), the words ''as it existed at any time before April 16, 1947'' are inserted for clarity, since the reference is intended to apply to the corps established by law before April 16, 1947. Service in the Army Nurse Corps or Navy Nurse Corps now existing would be included under clause (1) or (2), since there is now no legal distinction between the service of nurses and that of other members of the Army and Navy. In clause (6), the date ''January 1, 1961,'' is substituted for the words ''the effective date of this section,'' to reflect laws enacted after that effective date which authorized certain service to be credited for pay purposes. See, for example, Public Law 86–142. Clause (9) is substituted for section 233(b) (less proviso) of existing title 37. The last sentence is substituted for section 233(b) (proviso) of existing title 37.

In subsection (b), the first 33 words of section 233(d) of existing title 37 are omitted as covered by the words ''are computed by adding'' in subsection (a). The words ''for any reason,'' in section 233(d) of existing title 37, are omitted as surplusage.

In subsection (c)(3), the words ''chapter 67 of title 10'' are substituted for the words ''title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948,'' since that title was repealed by section 53 of the Act of August 10, 1956, ch. 1041 (70A Stat. 641), and is now codified as chapter 67 of title 10 by section 1 of that Act.

AMENDMENTS

2006—Subsec. (a)(2)(I). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

2000—Subsec. (f). Pub. L. 106–398 substituted ''that the officer performed concurrently as an enlisted member'' for ''that the officer performed concurrently as a member'' and ''section 12203'' for ''section 12209''.

1999—Subsec. (f). Pub. L. 106–65 added subsec. (f).

1997—Subsec. (d). Pub. L. 105–85 substituted a comma for the period after ''August 1, 1979''.

1996—Subsec. (d). Pub. L. 104–201 substituted ''for service that the officer performed on or after August 1, 1979.'' for ''that service after July 31, 1990, that the officer performed while serving on active duty''.

1994—Subsec. (e)(2)(A). Pub. L. 103–337, § 1676(b)(2)(A), substituted ''12103(b) or 12103(d)'' for ''511(b) or 511(d)''.

Subsec. (e)(2)(B). Pub. L. 103–337, § 1676(b)(2)(B), substituted ''chapter 1209'' for ''chapter 39''.

1993—Subsec. (a)(7)(B). Pub. L. 103–35 substituted ''the Department of Veterans Affairs'' for ''the Veterans' Administration''.

1992—Subsec. (d). Pub. L. 102–484 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Notwithstanding subsection (a), a commissioned officer may not count in computing his basic pay any period of service after October 13, 1964, that he performed concurrently as a member of a uniformed service and as a member of the Senior Reserve Officers' Training Corps.''

1991—Subsecs. (a) to (c). Pub. L. 102–25 struck out ''of this section'' and ''of this subsection'' wherever appearing.

1989—Subsec. (e). Pub. L. 101–189 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Notwithstanding subsection (a) of this section, a period served by a member of a uniformed service in a reserve component under an enlistment under section 511 of title 10 before the member—

''(1) begins service on active duty under subsection (b) of that section, or

''(2) begins an initial period of active duty for training under subsection (d) of that section,

may not be counted under this section.''

1984—Subsec. (e). Pub. L. 98–525 added subsec. (e).

1980—Subsec. (a). Pub. L. 96–513, § 402(a), struck out in introductory text reference to subsec. (d) of this section, struck out cls. (7) and (8), which provided for the addition of four years for medical and dental officers and one year in addition to the four years for a medical officer who has completed one year of medical internship or the equivalent, respectively, redesignated cl. (9) as (7), and in text following cl. (7), as so redesignated, substituted ''subsections (b), (c), and (d) of section 1402 and subsections (b), (c), and (d) of section 1402a'' for ''section 1402(b)–(d) and section 1402a(a)–(d)'', and ''clauses (2) through (7)'' for ''clauses (2)–(9)''.

Pub. L. 96–513, § 516(3), substituted in cl. (5) ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Service Administration'' and in provision following cl. (9) substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Service Administration'' and inserted ''Environmental Science Service Administration'' before ''Coast and Geodetic Survey''.

Pub. L. 96–342 inserted reference to section 1402a(a)–(d) of title 10.

Subsec. (b). Pub. L. 96–513, § 402(b), struck out provisions relating to reduction of amount of service authorized to be credited under cl. (7) or (8) of subsec. (a) of this section.

Subsecs. (c) to (e). Pub. L. 96–513, § 402(c), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (c), relating to limitations on service credited under cl. (7) or (8) of subsec. (a) of this section, was struck out.

1974—Subsec. (a)(1). Pub. L. 93–545 inserted ''aviation midshipman,'' after ''flight officer,''.

1968—Subsec. (e). Pub. L. 90–623 substituted ''October 13, 1964,'' for ''the enactment of this subsection''.

1966—Subsec. (a). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey'' in cl. (5) and inserted provision that, for the purpose of cl. (5), periods during which a member was a deck officer or junior engineer in the Environmental Science Services Administration includes periods during which a member was a deck officer or junior engineer in the Coast and Geodetic Survey.

1964—Subsec. (e). Pub. L. 88–647 added subsec. (e).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 607(b) of Pub. L. 98–525 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to persons who enlist under section 511 [now 12103] of title 10, United States Code, on or after the first day of the third calendar month which begins after the date of the enactment of this Act [Oct. 19, 1984].''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 402 of Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

Amendment by section 516(3) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

INCLUSION OF SENIOR ENLISTED ADVISOR FOR THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AMONG SENIOR ENLISTED MEMBERS OF THE ARMED FORCES

Pub. L. 109–163, div. A, title VI, §685(a), Jan. 6, 2006, 119 Stat. 3325, as amended by Pub. L. 109–364, div. A, title X, §1071(e)(5), Oct. 17, 2006, 120 Stat. 2401, provided that:

''(1) EQUAL TREATMENT.—The rate of basic pay for an enlisted member in the grade E–9 while serving as Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff shall be the same as the rate of basic pay for an enlisted member in that grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

''(2) EFFECTIVE DATE.—Paragraph (1) shall apply beginning on the date on which an enlisted member of the Armed Forces is first appointed to serve as Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff.''

TRANSITION PROVISION

Subsec. (f) of this section applicable to certain enlisted members of the Marine Corps Reserve selected for training as an officer candidate under section 12209 of Title 10, Armed Forces, before implementation of a financial assistance program under section 16401 of Title 10, see section 551(d) of Pub. L. 106–65, set out as a note under section 16401 of Title 10.

BENEFITS NOT TO ACCRUE FOR PERIODS PRIOR TO SEPTEMBER 23, 1996

No increase in pay or retired or retainer pay to accrue for periods before Sept. 23, 1996, by reason of amendments made by section 507 of Pub. L. 104–201, see section 507(c) of Pub. L. 104–201, set out as a note under section 2106 of Title 10, Armed Forces.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513, and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. (particularly §625) of Pub. L. 96–513, set out as a note under section 611 of Title 10, Armed Forces.

## §206. Reserves; members of National Guard: inactive-duty training

(a) Under regulations prescribed by the Secretary concerned, and to the extent provided for by appropriations, a member of the National Guard or a member of a reserve component of a uniformed service who is not entitled to basic pay under section 204 of this title, is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay—

(1) for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least two hours, including that performed on a Sunday or holiday;

(2) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe; or

(3) for a regular period of instruction that the member is scheduled to perform but is unable to perform because of physical disability resulting from an injury, illness, or disease incurred or aggravated—

(A) in line of duty while performing—

(i) active duty; or

(ii) inactive-duty training;

(B) while traveling directly to or from that duty or training (unless such injury, illness, disease, or aggravation of an injury, illness, or disease is the result of the gross negligence or misconduct of the member); or

(C) in line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training.

(b) The regulations prescribed under subsection (a) for each uniformed service, the National Guard, and each of the classes of organization of the reserve components within each uniformed service, may be different. The Secretary concerned shall, for the National Guard and each of the classes of organization within each uniformed service, prescribe—

(1) minimum standards that must be met before an assembly for drill or other equivalent period of training, instruction, duty, or appropriate duties may be credited for pay purposes, and those standards may require the presence for duty of officers and enlisted members in numbers equal to or more than a minimum number or percentage of the unit strength for a specified period of time with participation in a prescribed kind of training;

(2) the maximum number of assemblies or periods of other equivalent training, instruction, duty, or appropriate duties, that may be counted for pay purposes in each fiscal year or in lesser periods of time; and

(3) the minimum number of assemblies or periods of other equivalent training, instruction,

duty, or appropriate duties that must be completed in stated periods of time before the members of units or organizations can qualify for pay.

(c) A person enlisted in the inactive National Guard is not entitled to pay under this section.

(d)(1) Except as provided in paragraph (2), this section does not authorize compensation for work or study performed by a member of a reserve component or by a member of the National Guard while not in Federal service in connection with correspondence courses of a uniformed service.

(2) A member of the Selected Reserve of the Ready Reserve may be paid compensation under this section at a rate and under terms determined by the Secretary of Defense, but not to exceed the rate otherwise applicable to the member under subsection (a), upon the member's successful completion of a course of instruction undertaken by the member using electronic-based distributed learning methodologies to accomplish training requirements related to unit readiness or mobilization, as directed for the member by the Secretary concerned. The compensation may be paid regardless of whether the course of instruction was under the direct control of the Secretary concerned or included the presence of an instructor.

(3) The prohibition in paragraph (1), including the prohibition as it relates to a member of the National Guard while not in Federal service, applies to—

(A) any work or study performed on or after September 7, 1962, unless that work or study is specifically covered by the exception in paragraph (2); and

(B) any claim based on that work or study arising after that date.

(e) A member of the National Guard or of a reserve component of the uniformed services may not be paid under this section for more than four periods of equivalent training, instruction, duty, or appropriate duties performed during a fiscal year instead of the member's regular period of instruction or regular period of appropriate duty during that fiscal year.

(f) A member of the Individual Ready Reserve is not entitled to compensation under this section for participation in screening for which the member is paid a stipend under section 433a of this title.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 460; Pub. L. 98–525, title XIV, § 1402(a), Oct. 19, 1984, 98 Stat. 2620; Pub. L. 99–661, div. A, title VI, § 604(c), Nov. 14, 1986, 100 Stat. 3876; Pub. L. 100–456, div. A, title VI, § 631(c), Sept. 29, 1988, 102 Stat. 1985; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title VII, § 702(d), Feb. 10, 1996, 110 Stat. 371; Pub. L. 105–85, div. A, title V, § 513(g), Nov. 18, 1997, 111 Stat. 1732; Pub. L. 107–107, div. A, title V, § 513(e), title VI, § 603(a), Dec. 28, 2001, 115 Stat. 1093, 1133; Pub. L. 109–163, div. A, title VI, § 604, Jan. 6, 2006, 119 Stat. 3287; Pub. L. 109–364, div. A, title VI, § 607, Oct. 17, 2006, 120 Stat. 2247; Pub. L. 110–181, div. A, title VI, § 633(b), Jan. 28, 2008, 122 Stat. 155.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 206(a) ..... | 37:301(a) (less 45 words before proviso and proviso).<br>37:301(e) (as applicable to basic pay). | Oct. 12, 1949, ch. 681, § 501(a) (less 45 words before proviso), (b) (less 1st sentence), (e) (as applicable to basic pay), 63 Stat. 825, 827; Aug. 10, 1956, ch. 1041, § 20(e), (f), 70A Stat. 629; June 30, 1960, Pub. L. 86–559, § 8, 74 Stat. 282. |
| 206(b) ..... | 37:301(a) (proviso). | |
| 206(c) ..... | 32:303(c). | [None.] |
| 206(d) ..... | 37:301(b) (less 1st sentence). | |

In subsection (a), the words ''National Guard'' are substituted for the words ''National Guard, Air National Guard'', in section 301(a) of existing title 37, to conform to the definition of ''National Guard'' in section 101(6) of this revised title. The words ''member of a reserve component of a uniformed service'' are substituted for the words ''National Guard of the United States, Air National Guard of the United States, Organized Reserve Corps, Naval Reserve, Air Force Reserve, Marine Corps Reserve, Coast Guard Reserve, and the Reserve Corps of the Public Health Service,'' since all of those organizations, or their successors, are the reserve components of the uniformed services. The words ''who is not entitled to basic pay under section 204 of this title'' are substituted for section 301(e) as (applicable to basic pay) of existing title 37. The words ''of a corresponding grade'' are inserted for clarity.

In subsection (b), the words ''National Guard or reserve components'' are substituted for the listing of organizations for the reasons set forth above. Reference to ''classes of organization,'' so far as they relate to the National Guard, are omitted, since there are no classes of organization of the National Guard.

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (e) of this section were contained in the following appropriation acts:

Pub. L. 98–473, title I, § 101(h) [title VIII, § 8020], Oct. 12, 1984, 98 Stat. 1904, 1927.

Pub. L. 98–212, title VII, § 722, Dec. 8, 1983, 97 Stat. 1442.

Pub. L. 97–377, title I, § 101(c) [title VII, § 725], Dec. 21, 1982, 96 Stat. 1833, 1855.

Pub. L. 97–114, title VII, § 725, Dec. 29, 1981, 95 Stat. 1583.

Pub. L. 96–527, title VII, § 726, Dec. 15, 1980, 94 Stat. 3086.

Pub. L. 96–154, title VII, § 726, Dec. 21, 1979, 93 Stat. 1157.

Pub. L. 95–457, title VIII, § 826, Oct. 13, 1978, 92 Stat. 1248.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110–181 added subsec. (f).

2006—Subsec. (d)(1). Pub. L. 109–163 inserted ''or by a member of the National Guard while not in Federal service'' after ''reserve component''.

Subsec. (d)(3). Pub. L. 109–364 added par. (3).

2001—Subsec. (a)(3)(C). Pub. L. 107–107, § 513(e), struck out '', if the site is outside reasonable commuting distance from the member's residence'' before period at end.

Subsec. (d). Pub. L. 107–107, § 603(a), designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), this section'' for ''This section'' and ''a uniformed service'' for ''an armed force'', and added par. (2).

1997—Subsec. (a)(3)(C). Pub. L. 105–85 inserted ''while remaining overnight immediately before the commencement of inactive-duty training, or'' after ''in line of duty''.

1996—Subsec. (a)(3)(C). Pub. L. 104–106 added subpar. (C).

1991—Subsec. (b). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

1988—Subsec. (a)(3)(A)(i). Pub. L. 100–456 struck out ''for a period of 30 days or less'' after ''active duty''.

1986—Subsec. (a). Pub. L. 99–661, substituted ''entitled to basic pay—'' and pars. (1) to (3) for ''entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or holiday, or for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe.''

1984—Subsec. (e). Pub. L. 98–525 added subsec. (e).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 applicable with respect to persons who, after Sept. 29, 1988, incur or aggravate an injury, illness, or disease, or who die as the result of incurring or aggravating an injury, illness, or disease, see section 631(d) of Pub. L. 100–456, set out as a note under section 204 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of Title 10, Armed Forces.

## § 207. Band leaders

(a) The leader of the Army Band is entitled to the basic pay of a captain in the Army.

(b) The leader of the United States Navy Band is entitled to the basic pay of a lieutenant in the Navy.

(c) A member of the Marine Corps who is appointed as director or assistant director of the United States Marine Band under section 6222 of title 10 is entitled, while serving thereunder, only to the basic pay of an officer in the grade in which he is serving. However, his basic pay may not be less that to which he was entitled at the time of his appointment under that section.

(d) The leader of the Naval Academy Band is entitled to the basic pay of the grade the Secretary of the Navy prescribes. The second leader is entitled to the basic pay of a warrant officer, W–1.

(e) The director of the Coast Guard Band is entitled to the basic pay of an officer in the grade in which he is serving. However, his basic pay may not be less than that to which he was entitled at the time of his appointment as director.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 460; Pub. L. 89–189, § 2, Sept. 17, 1965, 79 Stat. 820; Pub. L. 95–551, § 3(b)(1), Oct. 30, 1978, 92 Stat. 2069.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 207(a) ..... | 10:3536(b) (as applicable to basic pay). | [None.] |
| 207(b) ..... | 10:4338(a) (as applicable to basic pay). | [None.] |
| 207(c) ..... | 10:6221(b) (as applicable to basic pay). | [None.] |
| 207(d) ..... | 10:6222(e) (as applicable to basic pay). | [None.] |
| 207(e) ..... | 10:6969(b) (less last sentence, as applicable to basic pay). | [None.] |

In subsection (a), the last 22 words of section 3536(b) of title 10 are omitted as covered by section 205 of this revised title.

In subsection (b), the last sentence of section 4338(a) of title 10 is omitted as covered by section 205 of this revised title.

In subsection (c), the last 22 words of section 6221(b) of title 10 are omitted as covered by section 205 of this revised title.

In subsection (e), the 2d sentence of section 6969(b) of title 10 is omitted as covered by section 205 of this revised title.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–551 redesignated former subsec. (c) as (b). Former subsec. (b), which provided that the director of music at the United States Military Academy be entitled to the basic pay of a commissioned officer of the rank prescribed for the director by the Secretary of the Army, was struck out.

Subsecs. (c) to (e). Pub. L. 95–551 redesignated former subsecs. (d) to (f) as (c) to (e), respectively.

Subsec. (f). Pub. L. 95–551 redesignated former subsec. (f) as (e).

1965—Subsec. (f). Pub. L. 89–189 added subsec. (f).

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), 551(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.

## [§ 208. Repealed. Pub. L. 91–482, § 1(b), Oct. 21, 1970, 84 Stat. 1082]

Section, Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 461, provided that an officer furloughed under section 6406 of Title 10, Armed Forces, was entitled to pay at the rate of one-half of the basic pay to which he was entitled at the time of being furloughed.

## § 209. Members of precommissioning programs

(a) SENIOR ROTC MEMBERS IN ADVANCED TRAINING.—(1) Except when on active duty, a member of the Senior Reserve Officers' Training Corps who is selected for advance training under section 2104 of title 10 is entitled to a monthly subsistence allowance at a rate prescribed under paragraph (2) beginning on the day he starts advanced training and ending upon the completion of his instruction under that section, but in no event shall any member receive such pay for more than 30 months.

(2) The Secretary of Defense shall prescribe by regulation the monthly rates for subsistence allowances provided under this section. The rate may not be less than $250 per month, but may not exceed $674 per month.

(3) A subsistence allowance under this section may not be considered financial assistance requiring additional service within the meaning of the third sentence of section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)).

(b) SENIOR ROTC MEMBERS APPOINTED IN RESERVES.—Except when on active duty, a cadet or midshipman appointed under section 2107 of title 10 is entitled to a monthly subsistence allowance at a rate prescribed under subsection (a). A member enrolled in the first two years of a four-year program is entitled to receive subsistence for a maximum of twenty months. A member en-

rolled in the advanced course is entitled to subsistence as prescribed for a member enrolled under section 2104 of title 10 as prescribed in subsection (a).

(c) NONSCHOLARSHIP SENIOR ROTC MEMBERS NOT IN ADVANCED TRAINING.—A member of the Selected Reserve Officers' Training Corps who has entered into an agreement under section 2103a of title 10 is entitled to a monthly subsistence allowance at a rate prescribed under subsection (a). That allowance may be paid to the member by reason of such agreement for a maximum of 20 months.

(d) PAY WHILE ATTENDING TRAINING OR PRACTICE CRUISE.—Each cadet or midshipman in the Senior Reserve Officers' Training Corps, while he is attending training or practice cruises under chapter 103 of title 10 if the training or cruise is of at least four weeks duration and must be completed before the cadet or midshipman is commissioned, and each applicant for membership in the Senior Reserve Officers' Training Corps, while he is attending field training or practice cruises to satisfy the requirements of section 2104(b)(6)(B) of title 10 for admission to advanced training, is entitled, while so attending, to pay at the rate prescribed for cadets and midshipmen at the United States Military, Naval, and Air Force Academies under section 203(c) of this title, except that the rate for a cadet or midshipman who is a member of the regular component of an armed force shall be the rate of basic pay applicable to the member under section 203 of this title.

(e) MEMBERS OF MARINE CORPS OFFICER CANDIDATE PROGRAM.—Except when serving on active duty, a member who is enrolled in a Marine Corps officer candidate program which requires a baccalaureate degree as a prerequisite to being commissioned as an officer and who is not enrolled in a program established under chapter 103 of title 10 or an academy established under chapter 403, 603, or 903 of title 10 may be paid a subsistence allowance at a monthly rate prescribed under subsection (a) for a member of the Senior Reserve Officers' Training Corps who is selected for advanced training under section 2104 of title 10.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 461; Pub. L. 88–647, title II, § 202(2), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89–51, § 3, June 28, 1965, 79 Stat. 173; Pub. L. 89–718, § 51, Nov. 2, 1966, 80 Stat. 1121; Pub. L. 92–171, § 1, Nov. 24, 1971, 85 Stat. 490; Pub. L. 95–79, title III, § 302(a)(3), July 30, 1977, 91 Stat. 326; Pub. L. 96–342, title VIII, § 811(a), Sept. 8, 1980, 94 Stat. 1098; Pub. L. 96–513, title V, § 516(4), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96–579, § 8, Dec. 23, 1980, 94 Stat. 3368; Pub. L. 98–94, title X, § 1003(a)(4), Sept. 24, 1983, 97 Stat. 656; Pub. L. 100–456, div. A, title VI, § 633(d), Sept. 29, 1988, 102 Stat. 1987; Pub. L. 101–189, div. A, title VI, § 653(d), Nov. 29, 1989, 103 Stat. 1462; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103–337, div. A, title VI, § 603(a), Oct. 5, 1994, 108 Stat. 2782; Pub. L. 106–65, div. A, title V, § 546(a), Oct. 5, 1999, 113 Stat. 608; Pub. L. 106–398, § 1 [[div. A], title VI, § 612(b), (c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–150; Pub. L. 107–107, div. A, title V, § 535(b), Dec. 28, 2001, 115 Stat. 1107; Pub. L. 107–314, div. A, title X, § 1062(g)(2), Dec. 2, 2002, 116 Stat. 2651; Pub. L. 108–136, div. A, title V, § 523(a), Nov. 24, 2003, 117 Stat. 1463.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 209(a) ..... | 10:6904(b). | [None.] |
| 209(b) ..... | 10:6905(b). | [None.] |
| 209(c) ..... | 10:6906(c) (1st sentence, as applicable to pay). | [None.] |

AMENDMENTS

2003—Subsecs. (c) to (e). Pub. L. 108–136 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

2002—Subsec. (d). Pub. L. 107–314 amended Pub. L. 106–398, § 1 [[div. A], title VI, § 612(c)(4)(B)]. See 2000 Amendment note below.

2001—Subsec. (c). Pub. L. 107–107 inserted before period at end ", except that the rate for a cadet or midshipman who is a member of the regular component of an armed force shall be the rate of basic pay applicable to the member under section 203 of this title".

2000—Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title VI, § 612(b), (c)(1)], inserted heading, designated first sentence as par. (1), substituted "monthly subsistence allowance at a rate prescribed under paragraph (2)" for "subsistence allowance of $200 a month", added par. (2), designated last sentence as par. (3), and substituted "A subsistence" for "Subsistence".

Subsec. (b). Pub. L. 106–398, § 1 [[div. A], title VI, § 612(c)(2)], inserted heading and substituted "at a rate prescribed under subsection (a)" for "in the amount provided in subsection (a)" in text.

Subsec. (c). Pub. L. 106–398, § 1 [[div. A], title VI, § 612(c)(3)], inserted heading.

Subsec. (d). Pub. L. 106–398, § 1 [[div. A], title VI, § 612(c)(4)(B)], as amended by Pub. L. 107–314, substituted "a monthly rate prescribed under subsection (a)" for "the same rate as that prescribed by subsection (a)".

Pub. L. 106–398, § 1 [[div. A], title VI, § 612(c)(4)(A)], inserted heading.

1999—Subsec. (a). Pub. L. 106–65 substituted "$200 a month" for "$150 a month".

1994—Subsec. (a). Pub. L. 103–337 substituted "$150 a month" for "$100 a month".

1991—Subsecs. (b) and (d). Pub. L. 102–25 struck out "of this section" after "subsection (a)" wherever appearing.

1989—Subsec. (c). Pub. L. 101–189 which directed striking out the period after "title 10" the first place it appears, was executed by striking the period after "the cadet or midshipman is commissioned" to reflect the probable intent of Congress.

1988—Subsec. (c). Pub. L. 100–456 substituted "training or practice cruises under chapter 103 of title 10 if the training or cruise is of at least four weeks duration and must be completed before the cadet or midshipman is commissioned." for "field training or practice cruises under section 2109 of title 10".

1983—Subsec. (a). Pub. L. 98–94 substituted "30 months" for "20 months".

1980—Subsec. (a). Pub. L. 96–513 substituted "section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1))" for "section 456(d)(1) of title 50, appendix".

Subsec. (d). Pub. L. 96–579 struck out par. (1) designation and par. (2) prohibiting payment of subsistence allowance for any period after Sept. 30, 1982.

Pub. L. 96–342 added subsec. (d).

1977—Pub. L. 95–79, § 302(a)(3)(B), substituted "Members of precommissioning programs" for "Members of Senior Reserve Officers' Training Corps" in section catchline.

Subsec. (c). Pub. L. 95–79, § 302(a)(3)(A), substituted provisions authorizing rates of pay for cadets and mid-

shipmen in the Senior Reserve Officers' Training Corps and applicants for membership in the Corps to be computed under section 203(c) of this title, for provisions authorizing rates of pay for members of the Senior Reserve Officers' Training Corps to be computed under section 201(c) of this title and for applicants for membership in the Corps to be computed under section 203 of this title for enlisted members in pay grade E–1.

1971—Subsec. (a). Pub. L. 92–171, §1(1), substituted ''a subsistence allowance of $100 a month'' for ''subsistence allowance at the rate of not less than $40 per month or more than $50 per month''.

Subsec. (b). Pub. L. 92–171, §1(2), substituted ''a monthly subsistence allowance in the amount provided in subsection (a) of this section. A member enrolled in the first two years of a four-year program is entitled to receive subsistence for a maximum of twenty months. A member enrolled in the advanced course is entitled to subsistence as prescribed for a member enrolled under section 2104 of title 10 as prescribed in subsection (a) of this section.'' for ''subsistence allowance at the rate of $50 a month beginning on the day that he starts his first term of college work under that section and ending upon the completion of his instruction under that section, but not for more than four years.''

1966—Subsec. (a). Pub. L. 89–718, §51(1), struck out '', United States Code,'' after ''section 2104 of title 10'', and substituted ''20'' for ''twenty'' and ''section 456(d)(1) of title 50, appendix'' for ''section 6(d)(1) of the Universal Military Training and Service Act, as amended (50 U.S.C. App. 456(d)(1))''.

Subsec. (c). Pub. L. 89–718, §51(2), struck out '', United States Code,'' after ''section 2104(b)(6)(B) of title 10''.

1965—Subsec. (a). Pub. L. 89–51 substituted ''subsistence allowance'' and ''Subsistence allowance'' for ''retainer pay'' and ''Retainer pay'', respectively.

Subsec. (b). Pub. L. 89–51 substituted ''subsistence allowance'' for ''retainer pay''.

1964—Pub. L. 88–647 substituted provisions which grant a trainee under section 2104 of title 10, retainer pay of from $40 to $50 monthly for his instruction period under said section 2104, limited to not more than 20 months, provide that such assistance does not fall within section 456(d)(1) of title 50 App., grant cadets or midshipmen under section 2107 of title 10 retainer pay, limited to not more than 4 years, authorize pay for trainees attending field training or practice cruises under section 2109 of title 10 at the rate prescribed for cadets and midshipmen at the military academies under section 201(c) of this title, and pay for applicants attending field training or practice cruises to satisfy section 2104(b)(6)(B) of title 10, as in section 203 of this title for enlisted men grade E–1, for provisions entitling midshipmen appointed under section 6904 of title 10 to $50 a month for his instruction period up to 4 academic years, seamen recruits under section 6905 of title 10 to $50 monthly for his instruction period under said section 6905, and midshipmen in flight training or on flight duty under section 6906 of title 10 to pay as for midshipmen at the Naval Academy plus an amount equal to 50 percent of his pay for flight duty.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–136 effective Jan. 1, 2004, see section 523(c) of Pub. L. 108–136, set out as an Effective Date note under section 2103a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title X, §1062(g), Dec. 2, 2002, 116 Stat. 2651, provided that the amendment made by section 1062(g)(2) is effective as of Oct. 30, 2000, and as if included in Pub. L. 106–398 as enacted.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 1 [[div. A], title VI, §612(b)] of Pub. L. 106–398 effective Oct. 1, 2001, see section 1 [[div. A], title VI, §612(d)] of Pub. L. 106–398, set out as a note under section 203 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title V, §546(b), Oct. 5, 1999, 113 Stat. 608, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1999.''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 603(b) of Pub. L. 103–337 provided that:

''(1) Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall apply with respect to months beginning after August 31, 1995.

''(2) Upon the approval of the Secretary of Defense, the Secretary of a military department may implement such amendments at an earlier date with respect to members of the Senior Reserve Officers' Training Corps under the jurisdiction of the Secretary if funds are available for the monthly subsistence allowances authorized by such amendments.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 applicable with respect to training performed after Sept. 30, 1988, see section 633(e) of Pub. L. 100–456, set out as a note under section 2109 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 2 of Pub. L. 92–171 provided that: ''The amendments made by this Act [amending this section] shall become effective on July 1, 1971.''

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–51 effective Oct. 13, 1964, see section 4 of Pub. L. 89–51, set out as a note under section 2109 of Title 10, Armed Forces.

SUBSISTENCE ALLOWANCES FOR MEMBERS OF THE MARINE CORPS OFFICER CANDIDATE PROGRAMS

Pub. L. 92–172, Nov. 24, 1971, 85 Stat. 491, as amended by Pub. L. 94–361, title VI, §604, July 14, 1976, 90 Stat. 929; Pub. L. 95–79, title VIII, §806, July 30, 1977, 91 Stat. 334; Pub. L. 95–485, title VIII, §803, Oct. 20, 1978, 92 Stat. 1620, which provided that until Sept. 30, 1980, except when on active duty, a member enrolled in a Marine Corps officer candidate program which required a baccalaureate degree as a prerequisite to being commissioned as a regular or reserve officer, and who was not enrolled in a program or an academy established under chapter 103, 403, 603, or 903 of Title 10, Armed Forces, could be paid a subsistence allowance at the same rate as that prescribed by subsec. (a) of this section, was repealed by Pub. L. 96–342, title VIII, §811(b), Sept. 8, 1980, 94 Stat. 1098. See subsec. (d) of this section.

## §210. Pay of senior enlisted members during terminal leave and while hospitalized

(a) A noncommissioned officer of an armed force who, immediately following the completion of service as the senior enlisted member of that armed force, is placed on terminal leave pending retirement shall be entitled, for not more than 60 days while in such status, to the rate of basic pay authorized for the senior enlisted member of that armed force.

(b) A noncommissioned officer of an armed force who is hospitalized and who, during or immediately before such hospitalization, com-

pleted service as the senior enlisted member of that armed force, shall continue to be entitled, for not more than 180 days while so hospitalized, to the rate of basic pay authorized for the senior enlisted member of that armed force.

(c) In this section, the term ''senior enlisted member'' means the following:

(1) The Sergeant Major of the Army.

(2) The Master Chief Petty Officer of the Navy.

(3) The Chief Master Sergeant of the Air Force.

(4) The Sergeant Major of the Marine Corps.

(5) The Master Chief Petty Officer of the Coast Guard.

(6) The Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff.

(Added Pub. L. 102–190, div. A, title VI, § 606(a), Dec. 5, 1991, 105 Stat. 1374; amended Pub. L. 104–201, div. A, title VI, § 603(a), (b)(1), Sept. 23, 1996, 110 Stat. 2540; Pub. L. 109–163, div. A, title VI, § 685(b), Jan. 6, 2006, 119 Stat. 3325; Pub. L. 109–364, div. A, title X, § 1071(c)(1), Oct. 17, 2006, 120 Stat. 2400.)

AMENDMENTS

2006—Subsec. (c)(6). Pub. L. 109–364 substituted ''Advisor to'' for ''Advisor for''.

Pub. L. 109–163 added par. (6).

1996—Pub. L. 104–201, § 603(b)(1), substituted ''Pay of senior enlisted members during terminal leave and while hospitalized'' for ''Pay of the senior noncommissioned officer of an armed force during terminal leave'' in section catchline.

Subsecs. (b), (c). Pub. L. 104–201, § 603(a), added subsec. (b) and redesignated former subsec. (b) as (c).

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), 551(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.

## § 211. Participation in Thrift Savings Plan

(a) DEFINITION.—In this section, the term ''member'' means—

(1) a member of the uniformed services serving on active duty; and

(2) a member of the Ready Reserve in any pay status.

(b) AUTHORITY.—Any member may participate in the Thrift Savings Plan in accordance with section 8440e of title 5.

(c) RULE OF CONSTRUCTION REGARDING SEPARATION.—For purposes of subchapters III and VII of chapter 84 of title 5, each of the following actions shall, in the case of a member participating in the Thrift Savings Plan in accordance with section 8440e of such title, be considered a separation from Government employment:

(1) Release of the member from active duty, not followed, before the end of the 31-day period beginning on the day following the effective date of the release, by—

(A) a resumption of active duty; or

(B) an appointment to a position covered by chapter 83 or 84 of title 5 or an equivalent retirement system, as identified by the Executive Director (appointed by the Federal Retirement Thrift Investment Board) in regulations.

(2) Transfer of the member to inactive status, or to a retired list pursuant to any provision of title 10.

(d) AGENCY CONTRIBUTIONS FOR RETENTION IN CRITICAL SPECIALTIES AND FIRST-TIME ENLISTEES.—(1) The Secretary concerned may enter into an agreement with a member to make contributions to the Thrift Savings Fund for the benefit of the member if the member—

(A)(i) is in a specialty designated by the Secretary as critical to meet requirements (whether such specialty is designated as critical to meet wartime or peacetime requirements); and

(ii) commits in such agreement to continue to serve on active duty in that specialty for a period of 6 years; or

(B) is enlisting in the armed forces for the first time and the period of the member's enlistment is not less than two years.

(2) Under any agreement entered into with a member under paragraph (1)(A), the Secretary shall make contributions to the Fund for the benefit of the member for each pay period of the 6-year period of the agreement for which the member makes a contribution to the Fund under section 8440e of title 5 (other than under subsection (d)(2) thereof).

(3) In the case of a member described by paragraph (1)(B), the Secretary shall make contributions to the Fund for the benefit of the member for each pay period of the enlistment of the member described in that paragraph for which the member makes a contribution to the Fund under section 8440e of title 5 (other than under subsection (d)(2) thereof).

(4) Paragraph (2) of section 8432(c) of title 5 applies to the Secretary's obligation to make contributions under this subsection, except that the reference in such paragraph (2) to contributions under paragraph (1) of such section 8432(c) does not apply.

(e) REPAYMENT OF AMOUNTS BORROWED FROM MEMBER ACCOUNT.—If a loan is issued to a member under section 8433(g) of title 5 from funds in the member's account in the Thrift Savings Plan, repayment of the loan may be required on the same semi-monthly basis as authorized for contributions to the Thrift Savings Fund on behalf of the member under section 1014(c) of this title.

(Added and amended Pub. L. 106–65, div. A, title VI, §§ 661(a)(1)(A), 662, Oct. 5, 1999, 113 Stat. 670, 672; Pub. L. 109–163, div. A, title VI, § 605, Jan. 6, 2006, 119 Stat. 3287; Pub. L. 110–181, div. A, title VI, § 605(b), Jan. 28, 2008, 122 Stat. 146.)

AMENDMENTS

2008—Subsec. (e). Pub. L. 110–181 added subsec. (e).

2006—Subsec. (d). Pub. L. 109–163, § 605(b), inserted ''and First-Time Enlistees'' after ''Specialties'' in heading.

Subsec. (d)(1). Pub. L. 109–163, § 605(a)(1), designated existing provisions of subpar. (A) as cl. (i), redesignated former subpar. (B) as cl. (ii) of subpar. (A) and sub-

stituted ''; or'' for period at end, and added a new subpar. (B).

Subsec. (d)(2) to (4). Pub. L. 109–163, §605(a)(2)–(4), substituted ''member under paragraph (1)(A)'' for ''member under paragraph (1)'' in first sentence of par. (2), added par. (3), designated second sentence of par. (2) as (4), and in par. (4) substituted ''this subsection'' for ''this paragraph''.

1999—Subsec. (d). Pub. L. 106–65, §662, added subsec. (d).

EFFECTIVE DATE

Section and amendment by Pub. L. 106–65 effective 180 days after Oct. 30, 2000, unless postponed, see section 663 of Pub. L. 106–65, as amended, set out as a note under section 8440e of Title 5, Government Organization and Employees.

PILOT PROGRAM ON CONTRIBUTIONS TO THRIFT SAVINGS PLAN FOR INITIAL ENLISTEES IN THE ARMY

Pub. L. 109–163, div. A, title VI, §606, Jan. 6, 2006, 119 Stat. 3287, as amended by Pub. L. 109–364, div. A, title VI, §608, title X, §1071(e)(3), Oct. 17, 2006, 120 Stat. 2247, 2401, provided that:

''(a) PILOT PROGRAM REQUIRED.—During the period beginning on January 6, 2006, and ending on December 31, 2008, the Secretary of the Army shall use the authority provided by section 211(d)(1)(B) of title 37, United States Code, as amended by section 605, to carry out within the Army a pilot program in order to assess the extent to which contributions by the Secretary to the Thrift Savings Fund on behalf of members of the Army described in subsection (b) would—

''(1) assist the Army in recruiting efforts; and

''(2) assist such members in establishing habits of financial responsibility during their initial enlistment in the Armed Forces.

''(b) COVERED MEMBERS.—To be eligible to participate in the pilot program under subsection (a), a member of the Army must be serving under an initial enlistment for a period of not less than two years.

''(c) CONTRIBUTIONS TO THRIFT SAVINGS FUND.—

''(1) IN GENERAL.—The Secretary of the Army may make contributions to the Thrift Savings Fund on behalf of any participant in the pilot program under subsection (a) for any pay period during the period of the pilot program.

''(2) LIMITATIONS.—The amount of any contributions made with respect to a member under paragraph (1) shall be subject to the provisions of section 8432(c) of title 5, United States Code.

''(d) REPORT.—

''(1) IN GENERAL.—Not later than February 1, 2008, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot program under subsection (a).

''(2) ELEMENTS.—The report shall include the following:

''(A) A description of the pilot program, including the number of members of the Army who participated in the pilot program and the contributions made by the Army to the Thrift Savings Fund on behalf of such members during the period of the pilot program.

''(B) An assessment, based on the pilot program and taking into account the views of officers and senior enlisted personnel of the Army, and of field recruiters, of the extent to which contributions by the military departments to the Thrift Savings Fund on behalf of members of the Armed Forces similar to the participants in the pilot program—

''(i) would enhance the recruiting efforts of the Armed Forces; and

''(ii) would assist such members in establishing habits of financial responsibility during their initial enlistment in the Armed Forces.''

## §212. Advancement of basic pay: members deployed in combat zone for more than one year

(a) ELIGIBILITY; AMOUNT ADVANCED.—If a member of the armed forces is assigned to duty in an area for which special pay under section 310 of this title is available and the assignment is pursuant to orders specifying an assignment of one year or more (or the assignment is extended beyond one year), the member may request, during the period of the assignment, the advanced payment of not more than three months of the basic pay of the member.

(b) CONSIDERATION OF REQUEST.—A request by a member described in subsection (a) for the advanced payment of a single month of basic pay shall be granted. The Secretary concerned may grant a member's request for a second or third month of advanced basic pay during the assignment upon a showing of financial hardship.

(c) RECOUPMENT OF ADVANCED PAY.—The Secretary concerned shall recoup an advance made on the basic pay of a member under this section in equal installments over a one-year period beginning as provided in subsection (d). If the member is serving on active duty for any month during the recoupment period, the amount of the installment for the month shall be deducted from the basic pay of the member for that month. The estate of a deceased member shall not be required to repay any portion of the advanced pay paid to the member and not repaid before the death of the member.

(d) COMMENCEMENT OF RECOUPMENT.—The recoupment period for an advancement of basic pay to a member under this section shall commence on the first day of the first month beginning on or after the date on which the member receives the advanced pay.

(Added Pub. L. 108–375, div. A, title VI, §606(a), Oct. 28, 2004, 118 Stat. 1945.)

# CHAPTER 5—SPECIAL AND INCENTIVE PAYS

SUBCHAPTER I—EXISTING SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES

Sec.
301. Incentive pay: hazardous duty.
301a. Incentive pay: aviation career.
301b. Special pay: aviation career officers extending period of active duty.
301c. Incentive pay: submarine duty.
301d. Multiyear retention bonus: medical officers of the armed forces.
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302. Special pay: medical officers of the armed forces.
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302f. Special pay: reserve, recalled, or retained health care officers.
302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties.

Sec.
302h. Special pay: accession bonus for dental officers.
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306a. Special pay: members assigned to international military headquarters.
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307a. Special pay: assignment incentive pay.
308. Special pay: reenlistment bonus.
[308a. Repealed.]
308b. Special pay: reenlistment bonus for members of the Selected Reserve.
308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve.
308d. Special pay: members of the Selected Reserve assigned to certain high priority units.
[308e, 308f. Repealed.]
308g. Special pay: bonus for enlistment in elements of the Ready Reserve other than the Selected Reserve.
308h. Special pay: bonus for reenlistment, enlistment, or voluntary extension of enlistment in elements of the Ready Reserve other than the Selected Reserve.
308i. Special pay: prior service enlistment bonus.
308j. Special pay: affiliation bonus for officers in the Selected Reserve.
309. Special pay: enlistment bonus.
310. Special pay: duty subject to hostile fire or imminent danger.
[311. Repealed.]
312. Special pay: nuclear-qualified officers extending period of active duty.[1]
[312a. Repealed.]
312b. Special pay: nuclear career accession bonus.
312c. Special pay: nuclear career annual incentive bonus.
[313. Repealed.]
314. Special pay or bonus: qualified members extending duty at designated locations overseas.
315. Special pay: engineering and scientific career continuation pay.
316. Special pay: bonus for members with foreign language proficiency.
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317. Special pay: officers in critical acquisition positions extending period of active duty.
318. Special pay: special warfare officers extending period of active duty.
319. Special pay: surface warfare officer continuation pay.
320. Incentive pay: career enlisted flyers.
321. Special pay: judge advocate continuation pay.
[322, 323. Renumbered.]
324. Special pay: accession bonus for new officers in critical skills.
325. Incentive bonus: savings plan for education expenses and other contingencies.
326. Incentive bonus: conversion to military occupational specialty to ease personnel shortage.
327. Incentive bonus: transfer between armed forces.
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331. General bonus authority for enlisted members.
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334. Special aviation incentive pay and bonus authorities for officers.
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354. Special pay: 15-year career status bonus for members entering service on or after August 1, 1986.
355. Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units.

SUBCHAPTER III—GENERAL PROVISIONS

371. Relationship to other incentives and pays.
372. Continuation of pays during hospitalization and rehabilitation resulting from wounds, injury, or illness incurred while on duty in a hostile fire area or exposed to an event of hostile fire or other hostile action.
373. Repayment of unearned portion of bonus, incentive pay, or similar benefit, and termination of remaining payments, when conditions of payment not met.
374. Regulations.

AMENDMENTS

2008—Pub. L. 110–417, [div. A], title VI, §§619(b)(2), 620(b)(2), 651(c)(2)(B), Oct. 14, 2008, 122 Stat. 4489, 4491, 4497, added items 302c–1, 316a, and 373 and struck out former item 373 ''Repayment of unearned portion of bonus, incentive pay, or similar benefit when conditions of payment not met''.

Pub. L. 110–181, div. A, title VI, §661(d), Jan. 28, 2008, 122 Stat. 178, amended analysis generally, substituting items 301 to 374 and subchapter headings for former items 301 to 330.

2006—Pub. L. 109–364, div. A, title VI, §§617(d), 621(d)(1), 622(a)(2), Oct. 17, 2006, 120 Stat. 2251, 2255, 2256, added items 302k, 302*l*, 329, and 330.

Pub. L. 109–163, div. A, title VI, §§629(d)(2), 631(c), 632(c)(2), 634(c)(2), 639(e)(2), 640(f)(2), 641(b), 642(c), 687(e)(2), Jan. 6, 2006, 119 Stat. 3297, 3299, 3300, 3302, 3303, 3305, 3306, 3336, added items 327 and 328, substituted ''Special pay: general provisions'' for ''Special pay: health professionals; general provisions'' in item 303a, ''Special pay: bonus for affiliation or enlistment in the Selected Reserve'' for ''Special pay: bonus for enlistment in the Selected Reserve'' in item 308c, ''Special pay: members of the Selected Reserve assigned to certain high priority units'' for ''Special pay: enlisted members of the Selected Reserve assigned to certain high priority units'' in item 308d, ''Special pay: affiliation bonus for officers in the Selected Reserve'' for ''Special pay: bonus for certain initial service of offi-

[1] So in original. Does not conform to section catchline.

cers in the Selected Reserve'' in item 308j, ''Special pay: bonus for members with foreign language proficiency'' for ''Special pay and bonus for members with foreign language proficiency'' in item 316, and ''Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units'' for ''Special pay: retention incentives for members qualified in a critical military skill'' in item 323, and struck out item 308e ''Special pay: bonus for reserve affiliation agreement'' and item 312a ''Special pay: nuclear-trained and qualified enlisted members''.

2004—Pub. L. 108–375, div. A, title VI, §§619(b), 620(a)(2), (b)(2), Oct. 28, 2004, 118 Stat. 1952, 1954, added item 308j, substituted ''Special pay and bonus for members with foreign language proficiency'' for ''Special pay: foreign language proficiency pay'' in item 316, and struck out item 316a ''Waiver of certification requirement''.

2003—Pub. L. 108–136, div. A, title VI, §§621(a)(2)(B), 624(b), 625(b), Nov. 24, 2003, 117 Stat. 1505–1507, added items 305b and 326 and substituted ''qualified members'' for ''qualified enlisted members'' in item 314.

2002—Pub. L. 107–314, div. A, title VI, §616(a)(2), Dec. 2, 2002, 116 Stat. 2570, added item 307a.

2001—Pub. L. 107–107, div. A, title VI, §§621(b), 622(a)(2), Dec. 28, 2001, 115 Stat. 1140, 1142, added items 324 and 325.

2000—Pub. L. 106–398, §1 [[div. A], title VI, §§624(a)(2), (b)(2), 628(c), 633(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–152, 1654A–153, 1654A–155, 1654A–158, added items 302i, 302j, 309, and 323 and struck out items 308a ''Special pay: enlistment bonus'' and 308f ''Special pay: bonus for enlistment in the Army''.

1999—Pub. L. 106–65, div. A, title VI, §§626(a)(2), 627(a)(2), 628(a)(2), 629(a)(2), 642(b), Oct. 5, 1999, 113 Stat. 656, 657, 659, 660, 663, added items 318 to 322.

1998—Pub. L. 105–261, div. A, title VI, §617(c)(2), Oct. 17, 1998, 112 Stat. 2041, struck out ''location'' after ''hardship duty'' in item 305.

1997—Pub. L. 105–85, div. A, title VI, §§617(b), 619(c)(2), 625(a)(2), Nov. 18, 1997, 111 Stat. 1789, 1790, 1795, added item 301e and substituted ''hardship duty location pay'' for ''while on duty at certain places'' in item 305 and ''Special pay or bonus:'' for ''Special pay:'' in item 314.

1996—Pub. L. 104–201, div. A, title VI, §615(c)(2), Sept. 23, 1996, 110 Stat. 2546, added item 302h.

Pub. L. 104–106, div. A, title VI, §614(a)(2), Feb. 10, 1996, 110 Stat. 361, added item 302g.

1991—Pub. L. 102–190, div. A, title VI, §§634(b), 635(b), 636(b), Dec. 5, 1991, 105 Stat. 1381–1383, added items 302f, 303b, and 316a.

Pub. L. 102–25, title VII, §702(a)(1), Apr. 6, 1991, 105 Stat. 117, substituted ''Multiyear retention'' for ''Retention'' in item 301d.

1990—Pub. L. 101–510, div. A, title VI, §§611(a)(2), 618(c)(2), title XII, §1203(a)(2), title XIV, §1484(f)(1), Nov. 5, 1990, 104 Stat. 1576, 1579, 1657, 1717, revised chapter heading so as to appear in all capital letters, added item 301d, inserted ''and nonphysician health care providers'' after ''psychologists'' in item 302c, and added item 317.

1989—Pub. L. 101–189, div. A, title V, §505(a)(2), title VII, §§704(b)(2), 705(a)(2), 706(a)(2), Nov. 29, 1989, 103 Stat. 1438, 1471–1473, struck out ''in the Public Health Service Corps'' after ''psychologists'' in item 302c and added items 302d, 302e, and 308d.

1987—Pub. L. 100–140, §2(b)(2), Oct. 26, 1987, 101 Stat. 831, added item 302c.

1986—Pub. L. 99–661, div. A, title VI, §634(a)(2), Nov. 14, 1986, 100 Stat. 3885, added item 316.

1985—Pub. L. 99–145, title VI, §§639(e), 644(a)(2), Nov. 8, 1985, 99 Stat. 651, 653, substituted ''dental officers of the armed forces'' for ''dentists'' in item 302b, added item 308i, and struck out item 311 ''Special pay: continuation pay for dentists in the armed forces''.

1984—Pub. L. 98–525, title VI, §623(b)(2), title XIV, §1402(b)(2), Oct. 19, 1984, 98 Stat. 2542, 2621, substituted ''special duty assignment pay for enlisted members'' for ''proficiency pay for enlisted members'' in item 307, and added item 306a.

1983—Pub. L. 98–94, title IX, §905(b)(2), title X, §1011(b)(2), Sept. 24, 1983, 97 Stat. 664, struck out item 308d ''Special pay: bonus for enlistment, reenlistment, or extension of enlistment in elements of the ready Reserve other than the Selected Reserve'', added items 308g and 308h, and in item 310 inserted ''or imminent danger''.

1981—Pub. L. 97–60, title I, §§117(c)(2), 120(b), Oct. 14, 1981, 95 Stat. 997, 999, added items 308f and 315.

1980—Pub. L. 96–579, §§3(e), 5(a)(2), Dec. 23, 1980, 94 Stat. 3364, 3366, added items 301c and 314.

Pub. L. 96–513, title V, §506(5), Dec. 12, 1980, 94 Stat. 2919, struck out items 302c ''Special pay: medical officers of the Public Health Service'' and 313 ''Special pay: medical officers of the Public Health Service who execute active duty agreements'', and struck out ''and physicians and dentists in the Public Health Service'' after ''forces'' in item 311.

Pub. L. 96–342, title VIII, §§805(a)(2), 806(a)(2), Sept. 8, 1980, 94 Stat. 1094, 1096, added items 301b, 308d, and 308e.

Pub. L. 96–284, §§2(b), 3(a)(2), (b)(6), 4(d)(4), 5(b), June 28, 1980, 94 Stat. 589–593, added items 302c and 303a, and in item 302, substituted ''medical officers of the armed forces'' for ''physicians'', item 311, substituted ''dentists in the armed forces and physicians and dentists in the Public Health Service'' for ''physicians and dentists who extend their service on active duty'', and in item 313, inserted ''of the Public Health Service'' after ''medical officers''.

1979—Pub. L. 96–107, title IV, §404(a)(2), Nov. 9, 1979, 93 Stat. 808, struck out item 309 ''Reserves; members of National Guard: additional pay for performance of administrative duty.''

1978—Pub. L. 95–485, title IV, §404(b), title VIII, §804(b)(2), Oct. 20, 1978, 92 Stat. 1615, 1621, substituted ''on duty'' for ''on sea duty or duty'' in item 305, and added items 305a and 308c.

1977—Pub. L. 95–79, title IV, §403(a)(2), July 30, 1977, 91 Stat. 331, added item 308b.

1976—Pub. L. 94–356, §3, July 12, 1976, 90 Stat. 901, added items 312b and 312c.

1974—Pub. L. 93–294, §2(3), May 31, 1974, 88 Stat. 177, added item 301a.

Pub. L. 93–274, §1(1), (2), (4), May 6, 1974, 88 Stat. 94, 95, substituted ''physicians'' for ''physicians and dentists'' in item 302, and added items 302b and 313.

1972—Pub. L. 92–581, §1(1), (4), Oct. 27, 1972, 86 Stat. 1277, 1278, struck out ''submarine'' in item 312, and added item 312a.

1971—Pub. L. 92–129, title II, §§202(b), 203(b), Sept. 28, 1971, 85 Stat. 358, added items 302a and 308a.

1969—Pub. L. 91–20, §1(2), June 3, 1969, 83 Stat. 13, added item 312.

1967—Pub. L. 90–207, §1(2)(B), Dec. 16, 1967, 81 Stat. 651, added item 311.

1963—Pub. L. 88–132, §§9(a)(2), 12(c), Oct. 2, 1963, 77 Stat. 216, 218, substituted ''while on sea duty or duty at certain places'' for ''sea and foreign duty'' in item 305, and added item 310.

## SUBCHAPTER I—EXISTING SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES

### §301. Incentive pay: hazardous duty

(a) Subject to regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled to incentive pay, in the amount set forth in subsection (b) or (c), for the performance of hazardous duty required by orders. In this subsection, the term ''hazardous duty'' means duty—

(1) involving frequent and regular participation in aerial flight as a crew member, as determined by the Secretary concerned, except for a member who is entitled to incentive pay under section 301a of this title;

(2) involving frequent and regular participation in aerial flight, not as a crew member under paragraph (1);

(3) involving parachute jumping as an essential part of military duty;

(4) involving the demolition of explosives as a primary duty, including training for that duty;

(5) inside a high- or low-pressure chamber;

(6) as a human acceleration or deceleration experimental subject;

(7) as a human test subject in thermal stress experiments;

(8) involving frequent and regular participation in flight operations on the flight deck of an aircraft carrier or of a ship other than an aircraft carrier from which aircraft are launched;

(9) involving frequent and regular exposure to highly toxic pesticides or involving laboratory work that utilizes live dangerous viruses or bacteria;

(10) involving (A) the servicing of aircraft or missiles with highly toxic fuels or propellants, (B) the testing of aircraft or missile systems (or components of such systems) during which highly toxic fuels or propellants are used, or (C) the handling of chemical munitions (or components of such munitions);

(11) involving regular participation as a member of a team conducting visit, board, search, and seizure operations aboard vessels in support of maritime interdiction operations;

(12) involving use of ski-equipped aircraft on the ground in Antarctica or on the Arctic icepack; or

(13) involving frequent and regular participation in aerial flight by a member who is serving as an air weapons controller crew member (as defined by the Secretary concerned) aboard an airborne warning and control system aircraft (as designated by such Secretary) and who is not entitled to incentive pay under section 301a of this title.

(b) For the performance of hazardous duty described in paragraph (1) of subsection (a), a member is entitled to monthly incentive pay as follows:

| Pay Grade | Monthly Rate |
|---|---|
| O–10 | $150 |
| O–9 | 150 |
| O–8 | 150 |
| O–7 | 150 |
| O–6 | 250 |
| O–5 | 250 |
| O–4 | 225 |
| O–3 | 175 |
| O–2 | 150 |
| O–1 | 150 |
| W–5 | 250 |
| W–4 | 250 |
| W–3 | 175 |
| W–2 | 150 |
| W–1 | 150 |
| E–9 | 240 |
| E–8 | 240 |
| E–7 | 240 |
| E–6 | 215 |
| E–5 | 190 |
| E–4 | 165 |
| E–3 | 150 |
| E–2 | 150 |
| E–1 | 150 |

(c)(1) For the performance of hazardous duty described in paragraphs (2) through (12) of subsection (a), a member is entitled to $150 a month. However, a member performing hazardous duty described in paragraph (3) of that subsection who also performs as an essential part of such duty parachute jumping in military free fall operations involving parachute deployment by the jumper without the use of a static line is entitled to $225 a month.

(2)(A) For the performance of hazardous duty described in paragraph (13) of subsection (a), a member is entitled to monthly incentive pay based upon his years of service as an air weapons controller as follows:

| Pay grade | Years of service as an air weapons controller | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 2 or less | Over 2 | Over 3 | Over 4 | Over 6 | Over 8 | Over 10 | Over 12 |
| O–7 and above | $200 | $200 | $200 | $200 | $200 | $200 | $200 | $200 |
| O–6 | 225 | 250 | 300 | 325 | 350 | 350 | 350 | 350 |
| O–5 | 200 | 250 | 300 | 325 | 350 | 350 | 350 | 350 |
| O–4 | 175 | 225 | 275 | 300 | 350 | 350 | 350 | 350 |
| O–3 | 150 | 156 | 188 | 206 | 350 | 350 | 350 | 350 |
| O–2 | 150 | 156 | 188 | 206 | 250 | 300 | 300 | 300 |
| O–1 | 150 | 156 | 188 | 206 | 250 | 250 | 250 | 250 |
| W–4 | 200 | 225 | 275 | 300 | 325 | 325 | 325 | 325 |
| W–3 | 175 | 225 | 275 | 300 | 325 | 325 | 325 | 325 |
| W–2 | 150 | 200 | 250 | 275 | 325 | 325 | 325 | 325 |
| W–1 | 150 | 150 | 150 | 175 | 325 | 325 | 325 | 325 |
| E–9 | 200 | 225 | 250 | 275 | 300 | 300 | 300 | 300 |
| E–8 | 200 | 225 | 250 | 275 | 300 | 300 | 300 | 300 |
| E–7 | 175 | 200 | 225 | 250 | 275 | 275 | 275 | 300 |
| E–6 | 156 | 175 | 200 | 225 | 250 | 250 | 250 | 300 |
| E–5 | 150 | 156 | 175 | 188 | 200 | 200 | 200 | 250 |
| E–4 and below | 150 | 156 | 175 | 188 | 200 | 200 | 200 | 200 |

| Pay grade | Over 14 | Over 16 | Over 18 | Over 20 | Over 22 | Over 24 | Over 25 |
|---|---|---|---|---|---|---|---|
| O–7 and above | $200 | $200 | $200 | $200 | $200 | $200 | $150 |
| O–6 | 350 | 350 | 350 | 300 | 250 | 250 | 225 |
| O–5 | 350 | 350 | 350 | 300 | 250 | 250 | 225 |
| O–4 | 350 | 350 | 350 | 300 | 250 | 250 | 225 |
| O–3 | 350 | 350 | 300 | 275 | 250 | 225 | 200 |
| O–2 | 300 | 300 | 275 | 245 | 210 | 200 | 180 |
| O–1 | 250 | 250 | 245 | 210 | 200 | 180 | 150 |
| W–4 | 325 | 325 | 325 | 276 | 250 | 225 | 200 |
| W–3 | 325 | 325 | 325 | 325 | 250 | 225 | 200 |
| W–2 | 325 | 325 | 325 | 275 | 250 | 225 | 200 |
| W–1 | 325 | 325 | 325 | 275 | 250 | 225 | 200 |
| E–9 | 300 | 300 | 300 | 275 | 230 | 200 | 200 |
| E–8 | 300 | 300 | 300 | 265 | 230 | 200 | 200 |
| E–7 | 300 | 300 | 300 | 265 | 230 | 200 | 200 |
| E–6 | 300 | 300 | 300 | 265 | 230 | 200 | 200 |
| E–5 | 250 | 250 | 250 | 225 | 200 | 175 | 150 |
| E–4 and below | 200 | 200 | 200 | 175 | 150 | 150 | 150 |

(B) For purposes of this paragraph, the years of service of a member as an air weapons controller shall be computed, under regulations prescribed by the Secretary concerned, from the date the member begins training leading to a designation as an air weapons controller, but there shall be excluded from such computation any period of more than 90 days during which the member performs primary duties other than as an air weapons controller.

(d)(1) In time of war, the President may suspend the payment of incentive pay for any hazardous duty described in subsection (a).

(2) A member is entitled to not more than two payments of incentive pay, authorized by this section, for a period of time during which he qualifies for more than one payment of that pay.

(e) A member of a uniformed service who is entitled to basic pay may be paid incentive pay under this subsection, at a monthly rate not to exceed $150, for any month during which the member performs duty involving regular participation as a firefighting crew member, as determined by the Secretary concerned.

(f)(1) Under regulations prescribed by the President and to the extent provided for by appropriations, when a member of a reserve component of a uniformed service, or of the National Guard, who is entitled to compensation under section 206 of this title, performs, under orders, any duty described in subsection (a) for members entitled to basic pay, he is entitled to an increase in compensation equal to 1/30 of the monthly incentive pay authorized by subsection (b) or (c), as the case may be, for the performance of that hazardous duty by a member of a corresponding grade who is entitled to basic pay. He is entitled to the increase for as long as he is qualified for it, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or holiday, or for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title. This subsection does not apply to a member who is entitled to basic pay under section 204 of this title for the entire month.

(2)(A) If in any calendar month a member performs duty as described in paragraph (1) and while entitled to basic pay also performs hazardous duty as described in the same paragraph of subsection (a) as constitutes the predicate for his entitlement under paragraph (1), the earned units of measuring entitlement for incentive pay under this section shall be combined. If the sum of units determined under the preceding sentence equals or exceeds the minimum standard prescribed by the President for entitlement to pay specified under subsections (b) and (c) for a member of corresponding grade who is entitled to basic pay for the entire relevant month, the member shall be entitled to an increase in compensation equal to 1/30 of the monthly incentive pay authorized by subsection (b) or (c) for the performance of that hazardous duty by a member of corresponding grade who is entitled to basic pay for the entire month.

(B) A member who qualifies for entitlement under this paragraph is entitled to the increase for each day in the relevant month in which he is entitled to basic pay pursuant to section 204 of this title or to compensation under section 206 of this title.

(C) In this paragraph, the term ''units'' means the significant increments of performance prescribed as qualifying standards in regulations promulgated by the President pursuant to this section.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 461; Pub. L. 88–132, §§6–8, Oct. 2, 1963, 77 Stat. 215, 216; Pub. L. 89–149, §§1–3, Aug. 28, 1965, 79 Stat. 585; Pub. L. 89–278, Oct. 20, 1965, 79 Stat. 1011; Pub. L. 89–718, §52, Nov. 2, 1966, 80 Stat. 1121; Pub. L. 92–436, title VI, §605, Sept. 26, 1972, 86 Stat. 740; Pub. L. 93–294, §2(1), (2), May 31, 1974, 88 Stat. 177; Pub. L. 96–343, §2(a), Sept. 8, 1980, 94 Stat. 1123; Pub. L. 96–513, title V, §516(5), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96–579, §3(a)–(c), Dec. 23, 1980, 94 Stat. 3360; Pub. L. 97–60, title I, §111(a)–(c), Oct. 14, 1981, 95 Stat. 992, 993; Pub. L. 98–94, title IX, §903(a), Sept. 24, 1983, 97 Stat. 635; Pub. L. 98–525, title VI, §624(a), Oct. 19, 1984, 98 Stat. 2542; Pub. L. 99–145, title VI, §§635(a), 647(a), title XIII, §1303(b)(2), Nov. 8, 1985, 99 Stat. 647, 655, 740; Pub. L. 99–661, div. A, title XIII, §1342(a), Nov. 14, 1986, 100 Stat. 3991; Pub. L. 100–26, §8(d)(1), (e)(2), Apr. 21, 1987, 101 Stat. 285, 286; Pub. L. 102–25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title VI, §614, title XI, §1111(d)(1), Dec. 5, 1991, 105 Stat. 1377, 1492; Pub. L. 104–106, div. A, title VI, §615, Feb. 10, 1996, 110 Stat. 361; Pub. L. 105–85, div. A, title VI, §614, Nov. 18, 1997, 111 Stat. 1786; Pub. L. 105–261, div. A, title VI, §614(a), Oct. 17, 1998, 112 Stat. 2039; Pub. L. 107–107, div. A, title VI, §615(a), (b), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 108–136, div. A, title VI, §615(a)–(c), Nov. 24, 2003, 117 Stat. 1502; Pub. L. 108–375, div. A, title VI, §615, Oct. 28, 2004, 118 Stat. 1948; Pub. L. 109–364, div. A, title X, §1071(c)(2), Oct. 17, 2006, 120 Stat. 2400.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 301(a) ..... | 37:235(a). | Feb. 18, 1946, ch. 30 (1st proviso under ''General Provision''), 60 Stat. 20. |
| 301(b) ..... | 37:235(b). | |
| 301(c) ..... | 37:235(c). | |
| 301(d) ..... | 37:235(d). | Oct. 12, 1949, ch. 681, §§204, 501(d), (e) (as applicable to incentive pay), 63 Stat. 809, 826, 827; Mar. 31, 1955, ch. 20, §2(4)–(7), 69 Stat. 19–21; Aug. 28, 1957, Pub. L. 85–208, 71 Stat. 484; May 20, 1958, Pub. L. 85–422, §1(6), 72 Stat. 124; June 30, 1960, Pub. L. 86–559, §8, 74 Stat. 282; July 12, 1960, Pub. L. 86–635, 74 Stat. 469; Aug. 17, 1961, Pub. L. 87–145, §§2, 3, 75 Stat. 382. |
| 301(e) ..... | 37:235(e). | |
| 301(f) ..... | 37:301(d). | |
| | 37:301(e) (as applicable to incentive pay). | |
| 301(g) ..... | 37:118a–1. | |

In subsection (a), the words ''is also entitled'' are substituted for the words ''shall, in addition thereto, be entitled''. The words ''For the purposes of this subsection'' are inserted for clarity. The word ''competent'' is omitted as surplusage.

In subsection (b), the words preceding the tables are substituted for section 235(b) (words preceding tables) of existing title 37. The words ''Years of service computed under section 205'' are inserted in the tables for clarity.

In subsection (f), the words ''a member of a reserve component of a uniformed service, or of the National Guard'' are substituted for the enumeration of the organizations concerned in section 301(d) of existing title 37. The words ''when . . . performs, under orders, any duty described in subsection (a)(1)–(11) for members entitled to basic pay'' are substituted for the words ''when required by competent orders to perform any hazardous duty prescribed by or pursuant to section 235 of this title for members of the uniformed services entitled to receive basic pay and when in consequence of such orders they do perform any hazardous duty so prescribed''. The last sentence is substituted for section 301(e) (as applicable to (d)) of existing title 37.

In subsection (g), the words ''entitled to incentive pay under section 301(a)(1) of this title'' are substituted for the words ''flight pay''. At the time of the enactment of the source statute, additional pay was author-

ized as ''flight pay''. However, the Career Compensation Act of 1949 did not authorize ''flight pay'' but provided incentive pay in section 204(a)(1) [now section 301(a)(1) of this revised title] for ''duty as a crew member . . . involving frequent and regular participation in aerial flight''. The words ''before January 2 of each year'' are substituted for the words ''On or before January 1, annually''. The word ''grade'' is substituted for the word ''rank'' to conform to the definition in section 101(15) of this revised title.

AMENDMENTS

2006—Subsec. (f)(2)(C). Pub. L. 109–364 struck out comma after ''the term''.

2004—Subsecs. (d), (e). Pub. L. 108–375 designated existing provisions of subsec. (d) as par. (1) of subsec. (d), redesignated former subsec. (e) as par. (2) of subsec. (d), and added subsec. (e).

2003—Subsec. (a)(2). Pub. L. 108–136, § 615(c)(1), substituted ''paragraph'' for ''clause''.

Subsec. (a)(11) to (13). Pub. L. 108–136, § 615(a), struck out ''or'' at end of par. (11), added par. (12), and redesignated former par. (12) as (13).

Subsec. (b). Pub. L. 108–136, § 615(c)(1), substituted ''paragraph'' for ''clause'' in introductory provisions.

Subsec. (c)(1). Pub. L. 108–136, § 615(c)(2), substituted ''paragraphs'' for ''clauses''.

Pub. L. 108–136, § 615(c)(1), substituted ''paragraph'' for ''clause''.

Pub. L. 108–136, § 615(b)(1), substituted ''(12)'' for ''(11)''.

Subsec. (c)(2)(A). Pub. L. 108–136, § 615(c)(1), substituted ''paragraph'' for ''clause'' in introductory provisions.

Pub. L. 108–136, § 615(b)(2), substituted ''(13)'' for ''(12)'' in introductory provisions.

Subsec. (f)(2)(A). Pub. L. 108–136, § 615(c)(1), substituted ''paragraph'' for ''clause'' after ''same''.

2001—Subsec. (a)(11), (12). Pub. L. 107–107, § 615(a), added par. (11) and redesignated former par. (11) as (12).

Subsec. (c)(1). Pub. L. 107–107, § 615(b)(1), substituted ''(11) of subsection (a)'' for ''(10) of subsection (a)''.

Subsec. (c)(2)(A). Pub. L. 107–107, § 615(b)(2), substituted ''(12) of subsection (a)'' for ''(11) of subsection (a)''.

1998—Subsec. (b). Pub. L. 105–261 in table substituted ''165'' for ''150'' as monthly rate for pay grade E–4, ''190'' for ''150'' as monthly rate for pay grade E–5, ''215'' for ''175'' as monthly rate for pay grade E–6, and ''240'' for ''200'' as monthly rate for pay grades E–7 to E–9.

1997—Subsec. (b). Pub. L. 105–85, § 614(a)(2), in table substituted ''150'' for ''125'' as monthly rate for pay grades O–1, W–1, and E–4.

Pub. L. 105–85, § 614(a)(1), in table substituted ''150'' for ''110'' as monthly rate for pay grades O–7 to O–10 and E–1 to E–3.

Subsec. (c)(1). Pub. L. 105–85, § 614(c), substituted ''$150'' for ''$110'' and ''$225'' for ''$165''.

Subsec. (c)(2)(A). Pub. L. 105–85, § 614(b), in table substituted ''150'' for ''100'' in first column for pay grade W–1, ''150'' for ''110'' in last column for pay grade O–7 and above, and ''150'' for ''125'' in first column for pay grades O–1 to O–3, E–4 and below, and E–5, in second column for pay grade W–1, and in fourteenth and fifteenth columns for pay grade E–4 and below.

1996—Subsec. (a)(11). Pub. L. 104–106, § 615(a), substituted ''a member'' for ''an officer (other than a warrant officer)''.

Subsec. (c)(2)(A). Pub. L. 104–106, § 615(c)(1), substituted ''a member'' for ''an officer'' in provisions before table.

Pub. L. 104–106, § 615(b), amended table generally, adding provisions relating to pay grades W–1 through W–4 and E–4 and below through E–9.

Subsec. (c)(2)(B). Pub. L. 104–106, § 615(c), substituted ''a member'' for ''an officer'' and substituted ''the member'' for ''the officer'' in two places.

1991—Pub. L. 102–25 struck out ''of this section'' and ''of this subsection'' wherever appearing.

Subsec. (b). Pub. L. 102–190, § 1111(d)(1), in table inserted provisions relating to pay grade of W–5, compensable at monthly rate of $250, below item relating to pay grade O–1.

Subsec. (c)(1). Pub. L. 102–190, § 614, substituted ''in military free fall operations involving parachute deployment by the jumper without the use of a static line'' for ''at a high altitude with a low opening''.

1987—Subsec. (a). Pub. L. 100–26, § 8(e)(2)(A), substituted ''In this subsection, the term'' for ''For the purposes of this subsection,''.

Subsec. (b). Pub. L. 100–26, § 8(d)(1), which directed that subsec. (b) be amended by substituting ''Monthly Rate'' for ''Monthly rate'' wherever appearing, could not be executed, because in the one place where the words appear, both words were already capitalized.

Subsec. (f)(2)(C). Pub. L. 100–26, § 8(e)(2)(B), substituted ''paragraph, the term'' for ''paragraph''.

1986—Subsec. (a)(1). Pub. L. 99–661 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''as a crew member, as determined by the Secretary concerned, involving frequent and regular participation in aerial flight;''.

1985—Subsec. (a)(1). Pub. L. 99–145, § 635(a)(1)(A), substituted ''a crew member'' for ''an enlisted crew member''.

Subsec. (a)(10). Pub. L. 99–145, § 635(a)(1)(B), in amending cl. (10) generally, designated existing provisions as cls. (A) and (B) and added cl. (C).

Subsec. (b). Pub. L. 99–145, § 635(a)(2), amended table generally, striking out differentiation in pay rates based upon years of service and reflect an upward adjustment in the monthly incentive pay with respect to pay grades E–9 through E–1, and inserted provisions relating to monthly incentive pay for pay grades O–10 through O–1 and W–4 through W–1, respectively.

Subsec. (c)(1). Pub. L. 99–145, § 1303(b)(2), directed the substitution of ''(10),'' for ''(10),,''. See amendment note below.

Pub. L. 99–145, § 635(a)(3), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For the performance of the hazardous duty described in clause (2), (3), (4), (5), (6), (7), (8), (9), or (10),, of subsection (a) of this section, an officer is entitled to $110 a month and an enlisted member is entitled to $83 a month.''

Subsec. (f). Pub. L. 99–145, § 647(a), designated existing provisions as par. (1), inserted ''for the entire month'' after ''section 204 of this title'', and added par. (2).

1984—Subsec. (a)(3). Pub. L. 98–525, § 624(a)(1), redesignated cl. (4) as (3). Former cl. (3), relating to duty involving frequent and regular participation in glider flights, was struck out.

Subsec. (a)(4). Pub. L. 98–525, § 624(a)(1), redesignated cl. (6) as (4). Former cl. (4) redesignated (3).

Subsec. (a)(5). Pub. L. 98–525, § 624(a)(1), redesignated cl. (7) as (5). Former cl. (5), relating to duty involving intimate contact with persons afflicted with leprosy, was struck out.

Subsec. (a)(6) to (13). Pub. L. 98–525, § 624(a)(1), redesignated cls. (8) to (13) as (6) to (11), respectively.

Subsec. (c)(1). Pub. L. 98–525, § 624(a)(2), substituted ''or (10),'' for ''(10), (11), or (12)''.

Subsec. (c)(2). Pub. L. 98–525, § 624(a)(3), substituted ''(11)'' for ''(13)''.

1983—Subsec. (a)(12). Pub. L. 98–94 inserted ''or the testing of aircraft or missile systems (or components of such systems) during which highly toxic fuels or propellants are used''.

1981—Subsec. (a). Pub. L. 97–60, § 111(a), inserted reference in cl. (10) to a ship other than an aircraft carrier from which aircraft are launched, and added cls. (11) to (13).

Subsec. (b). Pub. L. 97–60, § 111(b), amended table to reflect an upward adjustment in the monthly incentive pay.

Subsec. (c). Pub. L. 97–60, § 111(c), designated existing provisions as par. (1), inserted reference to cls. (11) and (12) of subsec. (a) of this section and substituted ''$83'' for ''$55'', and added par. (2).

1980—Subsec. (a)(2). Pub. L. 96–579, §3(a), redesignated cl. (4) as (2) and struck out former cl. (2) defining ''hazardous duty'' as including submarine duty. See section 301c(a)(5) of this title.

Pub. L. 96–513, §516(5)(A), (B), in subcl. (B) substituted reference to subcl. (A) for reference to cl. (A), and in subcl. (B) substituted reference to subcl. (B) for reference to cl. (B).

Subsec. (a)(3). Pub. L. 96–579, §3(a), redesignated cl. (5) as (3) and struck out former cl. (3) defining ''hazardous duty'' as including duty as an operator or crew member of an operational, self-propelled submersible, including undersea exploration and research vehicles. See section 301c(a)(5) of this title.

Subsec. (a)(4) to (12). Pub. L. 96–579, §3(a), redesignated cls. (4) to (12) as (2) to (10), respectively.

Subsec. (b). Pub. L. 96–579, §3(b), struck out par. (1) designation for provision relating to monthly flight incentive pay for enlisted members and struck out par. (2) relating to monthly incentive pay for commissioned officers, warrant officers, and enlisted members for hazardous duty as crew member involving frequent and regular participation in aerial flight, submarine duty, and duty as an operator or crew member of an operational, self-propelled submersible, including undersea exploration and research vehicles, now reflected as to enlisted members in currently upgraded scale in subsec. (b) table and covered in section 301c(b) table reflecting currently upgraded scale for submarine duty by enlisted members, commissioned officers, and warrant officers.

Pub. L. 96–343 redesignated existing provision as par. (2), substituted ''(2) or (3)'' for ''(1), (2), or (3)'', and added par. (1).

Subsec. (c). Pub. L. 96–579, §3(c), inserted references to cls. (2) and (3) and struck out references to cls. (11) and (12) of subsec. (a) of this section.

Subsec. (f). Pub. L. 96–513, §516(5)(C), substituted reference to subsection (a) for reference to subsection (a)(1)–(12).

1974—Subsec. (a)(1). Pub. L. 93–294, §2(1), substituted ''an enlisted crew member'' for ''a crew member''.

Subsec. (g). Pub. L. 93–294, §2(2), repealed subsec. (g) which required the Secretary of each military department to report to Congress before January 2 each year the number of officers of the Army, Navy, or Air Force, as the case may be, above the grade of major or lieutenant commander, by grade and age group, who were entitled to incentive pay under subsec. (a)(1) of this section. See section 301a of this title.

1972—Subsec. (a)(2)(A). Pub. L. 92–436 included in the hazardous duty for incentive pay of a member of a submarine operational command the application of hours served underway in excess of 48 during the preceding five calendar months and not used to qualify for incentive pay, to satisfy of underway time requirements for the current month.

1966—Subsec. (a)(2). Pub. L. 89–718 made only style changes by capitalizing letter designations for cls. ''A'', ''B'', and ''C'' and by setting off text following cl. C through the device of moving the margin to the left of the margin for the clauses.

1965—Subsec. (a)(2). Pub. L. 89–278 included duty as a member of a submarine operational command staff whose duties require serving on a submarine during underway operations for certain specified periods within term ''hazardous duty''.

Subsec. (a)(12). Pub. L. 89–149, §1, added cl. (12).

Subsecs. (c), (f). Pub. L. 89–149, §§2, 3, inserted reference to cl. (12) of subsec. (a).

1963—Subsec. (a)(2). Pub. L. 88–132, §6, substituted ''as determined by the Secretary concerned, on a submarine (including, in the case of nuclear-powered submarines, periods of training and rehabilitation after assignment thereto), or, in the case of personnel qualified in submarines, as a prospective crew-member of a submarine being constructed, and during periods of instruction to prepare for assignment to a submarine of advanced design or a position of increased responsibility on a submarine'' for ''on board a submarine, including, in the case of nuclear-powered submarines, periods of training and rehabilitation after assignment thereto as determined by the Secretary concerned, and including submarines under construction from the time builders' trials begin''.

Subsec. (a)(9). Pub. L. 88–132, §7, substituted ''inside a high- or low-pressure chamber'' for ''as a low-pressure chamber inside observer''.

Subsec. (e). Pub. L. 88–132, §8, substituted ''not more than two payments'' for ''only one payment''.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title VI, §615(d), Nov. 24, 2003, 117 Stat. 1502, provided that: ''Paragraph (12) of section 301(a) of title 37, United States Code, as added by subsection (a)(3), shall apply to duty described in such paragraph that is performed on or after October 1, 2003.''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VI, §615(c), Dec. 28, 2001, 115 Stat. 1136, provided that: ''Paragraph (11) of section 301(a) of title 37, United States Code, as added by subsection (a)(3), shall apply to duty described in such paragraph that is performed on or after January 1, 2002.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title VI, §614(b), Oct. 17, 1998, 112 Stat. 2040, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 1111(d)(1) of Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1342(h)(1) of Pub. L. 99–661 provided that: ''The amendments made by subsections (a) through (d) [amending this section and section 302 of this title and provisions set out as notes under sections 302b and 403 of this title] shall take effect on October 1, 1986, or the date of the enactment of this Act [Nov. 14, 1986], whichever is later.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 635(b) of Pub. L. 99–145 provided that: ''The amendments made by this section [amending this section] shall take effect on October 1, 1985.''

Section 647(b) of Pub. L. 99–145 provided that: ''The amendments made by subsection (a) [amending this section] shall apply to payments of incentive pay for hazardous duty performed after September 30, 1985.''

EFFECTIVE DATE OF 1983 AMENDMENT

Section 903(b) of Pub. L. 98–94 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1983.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 111(d) of Pub. L. 97–60 provided that: ''The amendments made by this section [amending this section] shall take effect as of October 1, 1981.''

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–579 effective Jan. 1, 1981, see section 3(g) of Pub. L. 96–579, set out as an Effective Date note under section 301c of this title.

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

Section 2(c) of Pub. L. 96–343 provided that: ''The amendments made by this section [amending this section] shall be effective with respect to incentive pay payable for months after August 1980.''

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–294 effective June 1, 1974, see section 6 of Pub. L. 93–294, set out as an Effective Date note under section 301a of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of this title.

TEMPORARY AUTHORITY FOR MONTHLY SPECIAL PAY FOR MEMBERS OF THE ARMED FORCES SUBJECT TO CONTINUING ACTIVE DUTY OR SERVICE UNDER STOP-LOSS AUTHORITIES

Pub. L. 111–84, div. A, title VI, § 620, Oct. 28, 2009, 123 Stat. 2357, provided that:

''(a) SPECIAL PAY AUTHORIZED.—The Secretary of the military department concerned may pay monthly special pay to any member of the Army, Navy, Air Force, or Marine Corps (including a member of a reserve component thereof) for any month, or portion of a month, in which the member serves on active duty in the Armed Forces, or has the member's eligibility for retirement from the Armed Forces suspended, as described in subsection (b).

''(b) ELIGIBILITY REQUIREMENTS.—A member of the Armed Forces referred to in subsection (a) is eligible to receive special pay under this section if the member, at any time during the period beginning on October 1, 2009, and ending on June 30, 2011, serves on active duty while the member's enlistment or period of obligated service is extended, or has the member's eligibility for retirement suspended, pursuant to section 123 or 12305 of title 10, United States Code, or any other provision of law (commonly referred to as a 'stop-loss authority') that authorizes the President to extend an enlistment or period of obligated service, or suspend eligibility for retirement, of a member of the Armed Forces in time of war or national emergency declared by Congress or the President.

''(c) AMOUNT.—The amount of monthly special pay payable to a member under this section for a month may not exceed $500.

''(d) CONSTRUCTION WITH OTHER PAYS.—Monthly special pay payable to a member under this section is in addition to any other amounts payable to the member by law.''

TRANSITIONAL PROVISIONS

Pub. L. 110–181, div. A, title VI, § 662, Jan. 28, 2008, 122 Stat. 180, provided that:

''(a) IMPLEMENTATION PLAN.—

''(1) DEVELOPMENT.—The Secretary of Defense shall develop a plan to implement subchapters II and III of chapter 5 of title 37, United States Code, as added by section 661(a), and to correspondingly transition all of the special and incentive pay programs for members of the uniformed services solely to provisions of such subchapters.

''(2) SUBMISSION.—Not later than one year after the date of the enactment of this Act [Jan. 28, 2008], the Secretary shall submit the implementation plan to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

''(b) TRANSITION PERIOD.—During a transition period of not more than 10 years beginning on the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense, the Secretary of a military department, and the Secretaries referred to in subsection (d) may continue to use the authorities in provisions in subchapter I of chapter 5 of title 37, United States Code, as designated by section 661(a), but subject to the terms of such provisions and such modifications as the Secretary of Defense may include in the implementation plan, to provide bonuses and special and incentive pays for members of the uniformed services.

''(c) NOTICE OF IMPLEMENTATION OF NEW AUTHORITIES.—Not less than 30 days before the date on which a special pay or bonus authority provided under subchapter II of chapter 5 of title 37, United States Code, as added by section 661(a), is first utilized, the Secretary of Defense shall submit to the congressional defense committees a notice of the implementation of the authority, including whether, as a result of implementation of the authority, a corresponding authority in subchapter I of such chapter, as designated by section 661(a), will no longer be used.

''(d) COORDINATION.—The Secretary of Defense shall prepare the implementation plan in coordination with—

''(1) the Secretary of Homeland Security, with respect to the Coast Guard;

''(2) the Secretary of Health and Human Services, with respect to the commissioned corps of the Public Health Service; and

''(3) the Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

''(e) NO EFFECT ON FISCAL YEAR 2008 OBLIGATIONS.—During fiscal year 2008, obligations incurred under subchapters I, II, and III of chapter 5 of title 37, United States Code, as amended by section 661, to provide bonuses, incentive pays, special pays, and similar payments to members of the uniformed services under such subchapters may not exceed the obligations that would be incurred in the absence of the amendments made by such section.''

RETENTION INCENTIVES INITIATIVE FOR CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES

Pub. L. 105–261, div. A, title VI, § 622, Oct. 17, 1998, 112 Stat. 2042, provided that:

''(a) REQUIREMENT FOR NEW INCENTIVES.—The Secretary of Defense shall establish and provide for members of the Armed Forces qualified in critically short military occupational specialties a series of new incentives that the Secretary considers potentially effective for increasing the rates at which those members are retained in the Armed Forces for service in such specialties.

''(b) CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES.—For the purposes of this section, a military occupational specialty is a critically short military occupational specialty for an Armed Force if the number of members retained in that Armed Force in fiscal year 1998 for service in that specialty is less than 50 percent of the number of members of that Armed Force that were projected to be retained in that Armed Force for service in the specialty by the Secretary of the military department concerned as of October 1, 1997.

''(c) INCENTIVES.—It is the sense of Congress that, among the new incentives established and provided under this section, the Secretary of Defense should include the following incentives:

''(1) Family support and leave allowances.

''(2) Increased special reenlistment or retention bonuses.

''(3) Repayment of educational loans.

''(4) Priority of selection for assignment to preferred permanent duty station or for extension at permanent duty station.

''(5) Modified leave policies.

''(6) Special consideration for Government housing or additional housing allowances.

''(d) RELATIONSHIP TO OTHER INCENTIVES.—Incentives provided under this section are in addition to any special pay or other benefit that is authorized under any other provision of law.

''(e) REPORTS.—(1) Not later than December 1, 1998, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed

Services and Appropriations of the Senate and the House of Representatives] a report that identifies, for each of the Armed Forces, the critically short military occupational specialties to which incentives under this section are to apply.

''(2) Not later than April 15, 1999, the Secretary of Defense shall submit to the congressional defense committees a report that specifies, for each of the Armed Forces, the incentives that are to be provided under this section.''

PERSONS ENTITLED TO RECEIVE INCENTIVE PAY FOR DUTY INVOLVING CONTACT WITH PERSONS AFFLICTED WITH LEPROSY

Section 624(b) of Pub. L. 98–525 provided that: ''A member of the uniformed services who is entitled on the day before the date of the enactment of this Act [Oct. 19, 1984] to receive incentive pay under section 301(a)(5) [subsec. (a)(5) of this section] (for the performance of duty involving intimate contact with persons afflicted with leprosy) shall continue to be entitled to such pay under such section as in effect on that day so long as the member continues (without a break) to be assigned to perform such duties on and after that day.''

EXECUTIVE ORDER NO. 10152

Ex. Ord. No. 10152, Aug. 17, 1950, 15 F.R. 5489, as amended by Ex. Ord. No. 10618, July 1, 1955, 20 F.R. 4671; Ex. Ord. No. 10681, Oct. 24, 1956, 21 F.R. 8129; Ex. Ord. No. 10739, Nov. 19, 1957, 22 F.R. 9205; Ex. Ord. No. 10892, Nov. 10, 1960, 25 F.R. 10731; Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631, which concerned regulations relating to incentive pay for performance of hazardous duty, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, formerly set out below.

EXECUTIVE ORDER NO. 11157

Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, as amended by Ex. Ord. No. 11242, Aug. 28, 1965, 30 F.R. 11205; Ex. Ord. No. 11253, Oct. 20, 1965, 30 F.R. 13509; Ex. Ord. No. 11259, Dec. 3, 1965, 30 F.R. 15057; Ex. Ord. No. 11292, Aug. 1, 1966, 31 F.R. 10447; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 11424, Aug. 29, 1968, 33 F.R. 12361; Ex. Ord. No. 11473, June 14, 1969, 34 F.R. 9485; Ex. Ord. No. 11511, Feb. 27, 1970, 35 F.R. 3877; Ex. Ord. No. 11591, Apr. 23, 1971, 36 F.R. 7833; Ex. Ord. No. 11716, Apr. 26, 1973, 38 F.R. 10621; Ex. Ord. No. 11728, July 12, 1973, 38 F.R. 18861; Ex. Ord. No. 11897, Jan. 13, 1976, 41 F.R. 2071; Ex. Ord. No. 11929, July 26, 1976, 41 F.R. 31159; Ex. Ord. No. 11939, Sept. 30, 1976, 41 F.R. 43705; Ex. Ord. No. 12094, Nov. 1, 1978, 43 F.R. 51379; Ex. Ord. No. 12243, Oct. 3, 1980, 45 F.R. 66439; Ex. Ord. No. 12274, Jan. 16, 1981, 46 F.R. 5855; Ex. Ord. No. 12337, Jan. 11, 1982, 47 F.R. 1367, eff. Sept. 15, 1981; Ex. Ord. No. 12380, Aug. 18, 1982, 47 F.R. 36605, eff. Jan. 1, 1981; Ex. Ord. No. 12394, Nov. 18, 1982, 47 F.R. 52405, eff. Oct. 1, 1981; Ex. Ord. No. 12420, May 11, 1983, 48 F.R. 21525, eff. Oct. 1, 1981; Ex. Ord. No. 12488, Sept. 27, 1984, 49 F.R. 38525, eff. Oct. 1, 1983; Ex. Ord. No. 12494, Dec. 6, 1984, 49 F.R. 48175; Ex. Ord. No. 12541, Dec. 30, 1985, 51 F.R. 585, eff. Jan. 1, 1986; Ex. Ord. No. 12573, Nov. 6, 1986, 51 F.R. 40954, eff. in part Oct. 1, 1985; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 12762, June 4, 1991, 56 F.R. 25993; Ex. Ord. No. 12935, Oct. 28, 1994, 59 F.R. 54511, which related to regulations regarding incentive pay for hazardous duty, special pay for sea duty and duty at certain other locations, and basic allowances for subsistence and quarters, was revoked by Ex. Ord. No. 13294, § 2, Mar. 28, 2003, 68 F.R. 15919, set out below.

EX. ORD. NO. 13294. REGULATIONS RELATING TO HAZARDOUS DUTY INCENTIVE PAY, AVIATION CAREER INCENTIVE PAY, AND SUBMARINE DUTY INCENTIVE PAY

Ex. Ord. No. 13294, Mar. 28, 2003, 68 F.R. 15919, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 301, 301a, and 301c of title 37, United States Code, and section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense, the Secretary of Commerce, the Secretary of Health and Human Services, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, with respect to members of the uniformed services under their respective jurisdictions, are hereby designated and empowered to exercise, without approval, ratification, or other action by the President, the authority vested in the President by sections 301, 301a, and 301c of title 37, United States Code. The Secretaries shall consult each other in the exercise of such authority to ensure similar treatment for similarly situated members of the uniformed services unless the needs of their respective uniformed services require differing treatment.

SEC. 2. Executive Order 11157 of June 22, 1964, as amended, and Executive Order 11800 of August 17, 1974, as amended, are hereby revoked.

SEC. 3. This order is not intended to create, nor does it create, any right, benefit, or privilege, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, employees, or any other person.

GEORGE W. BUSH.

## § 301a. Incentive pay: aviation career

(a)(1) Subject to regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled to aviation career incentive pay in the amount set forth in subsection (b) for the frequent and regular performance of operational or proficiency flying duty required by orders.

(2) Aviation career incentive pay shall be restricted to regular and reserve officers who hold, or are in training leading to, an aeronautical rating or designation and who engage and remain in aviation service on a career basis.

(3) Under regulations prescribed by the Secretary of Defense, the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, or the Secretary of Commerce and the Secretary of Health and Human Services with respect to members under their respective jurisdiction, an officer (except a flight surgeon or other medical officer) who is entitled to basic pay, holds an aeronautical rating or designation, and is qualified for aviation service under regulations prescribed by the Secretary concerned, is entitled to continuous monthly incentive pay in the amount set forth in subsection (b) that is applicable to him. A flight surgeon or other medical officer who is entitled to basic pay, holds an aeronautical rating or designation, and is qualified for aviation service under regulations prescribed by the Secretary concerned, is not entitled to continuous monthly incentive pay but is entitled to monthly incentive pay in the amounts set forth in subsection (b) for the frequent and regular performance of operational flying duty.

(4) To be entitled to continuous monthly incentive pay, an officer must perform the prescribed operational flying duties (including flight training but excluding proficiency flying) for 8 of the first 12, and 12 of the first 18 years of the aviation service of the officer. However, if an officer performs the prescribed operational flying duties (including flight training but ex-

cluding proficiency flying) for at least 10 but less than 12 of the first 18 years of the aviation service of the officer, the officer will be entitled to continuous monthly incentive pay for the first 22 years of aviation service of the officer. Entitlement to continuous monthly incentive pay ceases for an officer (other than a warrant officer) upon completion of 25 years of aviation service, but such an officer in a pay grade below pay grade O–7 remains entitled to monthly incentive pay under subsection (b)(1) for the performance of operational flying duty.

(5) If upon completion of either 12 or 18 years of aviation service it is determined that an officer has failed to perform the minimum prescribed operational flying duty requirements during the prescribed periods of time, his entitlement to continuous monthly incentive pay ceases. For the needs of the service, the Secretary concerned may permit, on a case by case basis, an officer to continue to receive continuous monthly incentive pay despite the failure of the officer to perform the prescribed operational flying duty requirements during the prescribed periods of time so long as the officer has performed those requirements for not less than 6 years of aviation service. The Secretary concerned may not delegate the authority in the preceding sentence to permit the payment of incentive pay under this subsection. If at the completion of 12 years of aviation service entitlement to continuous monthly incentive pay ceases, entitlement to that pay may again commence at the completion of 18 years of aviation service upon completion of the minimum operational flying duty requirements, such pay to continue for a period of time as prescribed in accordance with this section. However, if entitlement to continuous monthly incentive pay ceases in the case of any officer at the completion of either 12 or 18 years of aviation service, such officer remains entitled to monthly incentive pay for the performance of subsequent operational or proficiency flying duties up to the maximum period of time prescribed in accordance with this section.

(6) In this section:

(A) The term ''aviation service'' means service performed by an officer (except a flight surgeon or other medical officer) while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.

(B) The term ''operational flying duty'' means flying performed under competent orders by rated or designated members while serving in assignments in which basic flying skills normally are maintained in the performance of assigned duties as determined by the Secretary concerned, and flying performed by members in training that leads to the award of an aeronautical rating or designation.

(C) The term ''proficiency flying duty'' means flying performed under competent orders by rated or designated members while serving in assignments in which such skills would normally not be maintained in the performance of assigned duties.

(D) The term ''officer'' includes an individual enlisted, and designated, as an aviation cadet under section 6911 of title 10.

(b)(1) A member who satisfies the requirements described in subsection (a) is entitled to monthly incentive pay as follows:

| Years of aviation service (including flight training) as an officer: | Monthly rate |
|---|---|
| 2 or less | $125 |
| Over 2 | $156 |
| Over 3 | $188 |
| Over 4 | $206 |
| Over 6 | $650 |
| Over 14 | $840 |
| Over 22 | $585 |
| Over 23 | $495 |
| Over 24 | $385 |
| Over 25 | $250 |

(2) An officer in a pay grade above O–6 is entitled, until the officer completes 25 years of aviation service, to be paid at the rates set forth in the table in paragraph (1), except that—

(A) an officer in pay grade O–7 may not be paid at a rate greater than $200 a month; and

(B) an officer in pay grade O–8 or above may not be paid at a rate greater than $206 a month.

(3) For a warrant officer with over 22, 23, 24, or 25 years of aviation service who is qualified under subsection (a), the rate prescribed in the table in paragraph (1) for officers with over 14 years of aviation service shall continue to apply to the warrant officer.

(4) An officer serving as an air battle manager who is entitled to aviation career incentive pay under this section and who, before becoming entitled to aviation career incentive pay, was entitled to incentive pay under section 301(a)(13) of this title, shall be paid the monthly incentive pay at the higher of the following rates:

(A) The rate otherwise applicable to the member under this subsection.

(B) The rate at which the member was receiving incentive pay under section 301(c)(2)(A) of this title immediately before the member's entitlement to aviation career incentive pay under this section.

(c) In time of war, the President may suspend the payment of aviation career incentive pay.

(d) Under regulations prescribed by the President and to the extent provided for by appropriations, when a member of a reserve component of a uniformed service, or of the National Guard, who is entitled to compensation under section 206 of this title, performs, under orders, duty described in subsection (a) for members entitled to basic pay, he is entitled to an increase in compensation equal to 1/30 of the monthly incentive pay authorized by subsection (b) for the performance of that duty by a member with corresponding years of aviation service who is entitled to basic pay. Such member is entitled to the increase for as long as he is qualified for it, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or holiday, or for the performance of such other equivalent training, instruction, duty or appropriate duties, as the Secretary may prescribe under section 206(a) of this title. This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

(Added Pub. L. 93–294, § 2(3), May 31, 1974, 88 Stat. 177; amended Pub. L. 94–273, § 3(21), Apr. 21, 1976, 90 Stat. 377; Pub. L. 96–343, § 2(b), Sept. 8, 1980, 94 Stat. 1124; Pub. L. 96–513, title V, § 516(6), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 97–60, title I, § 112(a), (b), Oct. 14, 1981, 95 Stat. 994; Pub. L. 99–661, div. A, title VI, § 632(a), Nov. 14, 1986, 100 Stat. 3883; Pub. L. 100–26, § 8(e)(3), Apr. 21, 1987, 101 Stat. 286; Pub. L. 101–189, div. A, title VI, § 631(a)–(d), Nov. 29, 1989, 103 Stat. 1449, 1450; Pub. L. 101–510, div. A, title XIII, § 1322(c)(1), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103–35, title II, § 204(c), May 31, 1993, 107 Stat. 102; Pub. L. 104–106, div. A, title VI, § 616, Feb. 10, 1996, 110 Stat. 362; Pub. L. 105–85, div. A, title VI, § 615(a), (b), Nov. 18, 1997, 111 Stat. 1787; Pub. L. 105–261, div. A, title VI, § 615(a)(1), (b), (c)(1), (d), Oct. 17, 1998, 112 Stat. 2040, 2041; Pub. L. 106–65, div. A, title VI, § 614(a), Oct. 5, 1999, 113 Stat. 651; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–375, div. A, title X, § 1084(e)(1), Oct. 28, 2004, 118 Stat. 2063; Pub. L. 109–364, div. A, title X, § 1046(a), Oct. 17, 2006, 120 Stat. 2393.)

AMENDMENTS

2006—Subsec. (f). Pub. L. 109–364 struck out subsec. (f), which required the Secretary of Defense to submit annually to Congress a report specifying for the year covered by the report the total number of officers who were determined under subsection (a)(5) to have failed to perform the minimum operational flying duty requirements, the number of those officers who continued to receive continuous monthly incentive pay and the extent to which they failed to perform those requirements, and the reasons for the exercise of the authority under the second sentence of subsection (a)(5) in the case of each officer specified.

2004—Subsec. (b)(4). Pub. L. 108–375 substituted ''section 301(a)(13)'' for ''section 301(a)(11)''.

2002—Subsec. (a)(3). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1999—Subsec. (b)(4). Pub. L. 106–65 added par. (4).

1998—Subsec. (a)(4). Pub. L. 105–261, § 615(c)(1)(A), substituted ''22 years of aviation service of the officer'' for ''22 years of the officer's service as an officer'' and ''25 years of aviation service'' for ''25 years of service as an officer (as computed under section 205 of this title)''.

Subsec. (a)(6). Pub. L. 105–261, § 615(a)(1), added subpar. (A) and redesignated former subpars. (A) to (C) as (B) to (D), respectively.

Subsec. (b). Pub. L. 105–261, § 615(d), repealed section 615 of Pub. L. 105–85. See 1997 Amendment note below.

Pub. L. 105–261, § 615(b), amended subsec. (b) generally, substituting pars. (1) to (3) for former pars. (1) and (2).

Subsec. (d). Pub. L. 105–261, § 615(c)(1)(B), substituted ''subsection (b) for the performance of that duty by a member with corresponding years of aviation service'' for ''subsection (b)(1) or (2), as the case may be, for the performance of that duty by a member of corresponding years of aviation or officer service, as appropriate,''.

1997—Subsec. (b)(1). Pub. L. 105–85, § 615(b), substituted ''22 years'' for ''18 years'' in two places in provisions after phase II table.

Pub. L. 105–85, § 615(a), which directed amendment by inserting at the end of phase I of the table the following:

| | |
|---|---|
| ''Over 14 | 840''; |

and by striking out phase II of the table and inserting in lieu thereof the following:

''Phase II

| ''Years of service as an officer: | ''Monthly rate |
|---|---|
| ''Over 22 | 585 |
| ''Over 23 | 495 |
| ''Over 24 | 385 |
| ''Over 25 | 250'', |

was repealed by Pub. L. 105–261, § 615(d).

1996—Subsec. (a)(4). Pub. L. 104–106, § 616(a), substituted ''8'' for ''9'' before ''of the first 12''.

Subsec. (a)(5). Pub. L. 104–106, § 616(b), inserted ''The Secretary concerned may not delegate the authority in the preceding sentence to permit the payment of incentive pay under this subsection.'' after second sentence.

1993—Subsec. (a)(4). Pub. L. 103–35 made technical amendment to directory language of Pub. L. 101–189, § 631(a)(1). See 1989 Amendment note below.

1991—Pub. L. 102–25 struck out ''of this section'' wherever appearing and struck out ''of this subsection'' in subsec. (b)(2).

1990—Subsec. (e). Pub. L. 101–510 struck out subsec. (e) which read as follows: ''The Secretary of Defense shall report to Congress before October 1 each year the number of rated members by pay grade who—

''(1) have 12 or 18 years of aviation service, and of those numbers, the number who are entitled to continuous monthly incentive pay under subsection (a) of this section; and

''(2) are performing operational flying duties, proficiency flying, and those not performing flying duties.''

1989—Subsec. (a)(4). Pub. L. 101–189, § 631(a), as amended by Pub. L. 103–35, § 204(c), substituted ''9 of the first 12, and 12 of the first 18 years of the aviation service of the officer'' for ''6 of the first 12, and 11 of the first 18, years of his aviation service'', ''at least 10 but less than 12 of the first 18 years of the aviation service of the officer, the officer'' for ''at least 9 but less than 11 of the first 18 years of his aviation service, he'', and ''the officer's service as an officer'' for ''his officer service''.

Subsec. (a)(5). Pub. L. 101–189, § 631(b), inserted after first sentence ''For the needs of the service, the Secretary concerned may permit, on a case by case basis, an officer to continue to receive continuous monthly incentive pay despite the failure of the officer to perform the prescribed operational flying duty requirements during the prescribed periods of time so long as the officer has performed those requirements for not less than 6 years of aviation service.''

Subsec. (b)(1). Pub. L. 101–189, § 631(c)(1), in phase I table, substituted ''650'' for ''400'' in item relating to over 6 years, and in phase II table, struck out ''as computed under section 205'' after ''an officer'' in table heading, substituted ''$585'' for ''$370'', ''495'' for ''340'', and ''385'' for ''310'', in items relating to over 18 years, over 20 years, and over 22 years, respectively, and struck out item relating to a monthly rate of $280 for over 24 years.

Subsec. (b)(2). Pub. L. 101–189, § 631(c)(2), in table, substituted ''650'' for ''400'' in item relating to over 6 years.

Subsec. (f). Pub. L. 101–189, § 631(d), added subsec. (f).

1987—Subsec. (a)(6). Pub. L. 100–26, which directed that par. (6) of this section be amended, was executed to par. (6) of subsec. (a) of this section, to reflect the probable intent of Congress by substituting ''In this section:'' for ''For the purposes of this section, the term—'', inserting ''The term'' at beginning of subpars. (A) to (C), and substituting period for semicolon at end of subpar. (A) and period for ''; and'' at end of subpar. (B).

1986—Subsec. (a)(6)(C). Pub. L. 99–661, § 632(a)(1), added subpar. (C).

Subsec. (b)(1). Pub. L. 99–661, § 632(a)(2), substituted ''a member'' for ''an officer in pay grades O–1 through O–10''.

1981—Subsec. (a)(4). Pub. L. 97–60, § 112(a), inserted provision that entitlement to continuous monthly incentive pay ceases for an officer (other than a warrant

officer) upon completion of 25 years of service as an officer (as computed under section 205 of this title), but such an officer in a pay grade below pay grade O–7 remains entitled to monthly incentive pay under subsection (b)(1) of this section for the performance of operational flying duty.

Subsec. (b)(1), (2). Pub. L. 97–60, § 112(b), amended table to reflect an upward adjustment in monthly incentive pay.

1980—Subsec. (a)(3). Pub. L. 96–513 substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsec. (b)(1). Pub. L. 96–343, § 2(b)(1), (2), substituted in phase I table, ''$125'', ''$156'', ''$188'', ''$206'', and ''$306'' for ''$100'', ''$125'', ''$150'', ''$165'', and ''$245'' in items relating to 2 or less years, over 2 years, over 3 years, over 4 years, and over 6 years, respectively, in phase II table, ''$281'', ''$256'', ''$231'', and ''$206'' for ''$225'', ''$205'', ''$185'', and ''$165'' in items relating to over 18 years, over 20 years, over 22 years, and over 24 but not over 25 years, respectively, and ''$200'' and ''$206'' for ''$160'' and ''$165'', respectively.

Subsec. (b)(2). Pub. L. 96–343, § 2(b)(3), substituted ''$125'', ''$138'', and ''$250'' for ''$100'', ''$110'', and ''$200'' in items relating to 2 or less years, over 2 years, and over 6 years, respectively.

1976—Subsec. (e). Pub. L. 94–273 substituted ''October'' for ''July''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, § 614(b), Oct. 5, 1999, 113 Stat. 651, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to months beginning on or after that date.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 615(c) of Pub. L. 105–85, which provided that the amendments made by section 615(a) of Pub. L. 105–85 to this section were to take effect on Jan. 1, 1999, and were to apply with respect to months beginning on or after that date, was repealed by Pub. L. 105–261, div. A, title VI, § 615(d), Oct. 17, 1998, 112 Stat. 2041.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 204(c) of Pub. L. 103–35 provided that the amendment made by that section is effective Nov. 29, 1989.

EFFECTIVE DATE OF 1989 AMENDMENT; TRANSITION

Section 631(e), (f) of Pub. L. 101–189 provided that:

''(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made—

''(A) by subsection (c) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 29, 1989]; and

''(B) by subsections (a), (b), and (d) [amending this section] shall take effect on October 1, 1991.

''(2) The Secretary of a military department may delay, subject to the approval of the Secretary of Defense, the implementation of the amendments made by subsection (c) with respect to the department of that Secretary until such time as the Secretary concerned determines that implementation of those amendments is necessary to meet the needs of that department.

''(3) If the Secretary of a military department delays under paragraph (2) the implementation of the amendments made by subsection (c) beyond October 1, 1991, the Secretary may also delay implementation of the amendments made by subsections (a), (b), and (d) until the date on which the Secretary implements the amendments made by subsection (c). During the delay in implementation, the provisions of section 301a of title 37, United States Code, as in effect on the day before the date of the enactment of this Act, shall continue to apply in the case of such department to the payment of aviation career incentive pay under such section.

''(f) TRANSITION.—(1) An officer of a uniformed service who, as of the date the amendments made by subsections (a), (b), and (d) take effect with regard to the officer's uniformed service—

''(A) has completed years of aviation service in an amount equal to one of the number of years of aviation service specified in column 1 of the following table; and

''(B) has performed, or subsequently performs, the prescribed operational flying duties (including flight training but excluding proficiency flying) during the number of years of aviation service specified in column 2 of such table and corresponding to the number of years of aviation service applicable to the officer under column 1,

shall be entitled to continuous monthly incentive pay at the rates provided in section 301a(b) of title 37, United States Code (as amended by this section)[,] until the officer completes the years of service as an officer specified in column 3 of such table and applicable to the officer.

''TABLE

| COLUMN 1 | COLUMN 2 | COLUMN 3 |
|---|---|---|
| Number of years of aviation service | Number of years performing operational flying duty | Entitlement to continuous monthly incentive pay through the following year of officer service |
| 6 or more | At least 6 of the first 12 years of aviation service | 18 |
| 6 or more | At least 9 but less than 11 of the first 18 years of aviation service | 22 |
| 6 or more | At least 6 of the first 12 and at least 11 of the first 18 years of aviation service | 25 |
| At least 6 but less than 12 | Less than 6 and subsequently completes 6 of the first 12 and 9 of the first 15 years of aviation service | 18 |
| At least 12 but less than 18 | Less than 9 and subsequently completes 9 of the first 18 years of aviation service | 22 |
| At least 12 but less than 18 | Less than 11 and subsequently completes 11 of the first 18 years of aviation service | 25 |

''(2) For purposes of this subsection, the terms 'operational flying duty' and 'proficiency flying duty' have the meaning given to such terms in section 301a(a)(6) of title 37, United States Code.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 632(b) of Pub. L. 99–661 provided that: ''The amendments made by subsection (a) [amending this section] shall apply only with respect to those members of the Armed Forces who are aviation cadets on or after the date of the enactment of this Act [Nov. 14, 1986]. Service as an aviation cadet before that date shall not be counted for any purpose under section 301a of title 37, United States Code.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 112(c) of Pub. L. 97–60 provided that: ''The amendments made by this section [amending this section] shall take effect as of October 1, 1981.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE

Section 6 of Pub. L. 93–294 provided that: ''This Act [enacting this section, amending section 301 of this title, and enacting provisions set out as notes under this section] becomes effective on the first day of the first month after enactment [May 31, 1974].''

DELEGATION OF FUNCTIONS

For delegation of authority under this section to Secretaries of Defense, Commerce, Health and Human Services, and Homeland Security when Coast Guard not serving as part of Navy, see section 1 of Ex. Ord. No. 13294, Mar. 28, 2003, 68 F.R. 15919, set out as a note under section 301 of this title.

MONTHLY INCENTIVE PAY FOR CERTAIN OFFICERS ENTITLED TO INCENTIVE PAY UNDER SECTION 301(a)(1) OF THIS TITLE ON MAY 31, 1973

Section 4 of Pub. L. 93–294 provided that: ''Notwithstanding the amendments made by this Act [enacting this section and amending section 301 of this title], an officer who was entitled to incentive pay under section 301(a)(1) of title 37, United States Code, on May 31, 1973, or on the day before the effective date of this Act [June 1, 1974], if otherwise qualified on the day before the effective date of this Act, is entitled to monthly incentive pay as prescribed in either clause (1) or (2) of this section, as follows:

''(1) If he is credited with 6 or less years of aviation service as an officer, and with less than 12 years of service as an officer, he is entitled to monthly incentive pay either—

''(A) in the amount he was receiving under section 301(b) of that title on May 31, 1973, or on the day before the effective date of this Act [June 1, 1974], but with no entitlement after either of those dates, as applicable, to any longevity pay increases or increases resulting from promotion to a higher grade until such time as the rate to which he is entitled under section 301a(b) of that title, as added by this Act, is equal to or greater than the amount he was receiving under that section on May 31, 1973, or on the day before the effective date of this Act, and thereafter his entitlement is as prescribed by that section as added by this Act; or

''(B) at the rate prescribed by section 301a(b) of that title, as added by this Act;

whichever is greater. However, an officer who is promoted and assigned to pay grade O–7 or above during the 36-month period following the effective date of this Act [June 1, 1974] may not receive more than the rate which existed for that pay grade, as appropriate, prior to June 1, 1973.

''(2) If he is credited with more than 6 years of aviation service as an officer, or less than 6 years of aviation service but more than 12 years of service as an officer, he may receive monthly incentive pay at the rate prescribed in the table in section 301a(b) of title 37, United States Code, as added by this Act, that is applicable to him, or $165, whichever is greater, for not more than 36 months after the effective date of this Act [June 1, 1974], notwithstanding the provisions of section 301a(a) of that title, as added by this Act, with respect to prescribed operational flying duties (including flight training but excluding proficiency flying). However, under this clause, an officer who is assigned to the pay grade O–7 on the effective date of this Act, or is promoted to the pay grade O–7 during the 36-month period following the effective date of this Act, may not receive more than $160 per month while assigned to that grade.

The amount to which a reserve officer who is entitled to compensation under section 206 of title 37, United States Code, is entitled under this section is governed by the provisions of section 301a(d) of that title, as added by this Act.''

ANNUAL REPORT BY DEPARTMENT OF DEFENSE

Section 5 of Pub. L. 93–294 provided that: ''A yearly report containing such data as necessary to monitor the progress of this bill [Pub. L. 93–294] shall be made by the Department of Defense in cooperation with the Senate and House Armed Services Committees and released publicly.''

EXECUTIVE ORDER NO. 11800

Ex. Ord. No. 11800, Aug. 17, 1974, 39 F.R. 30103, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 13286, § 58, Feb. 28, 2003, 68 F.R. 10629, which delegated authority vested in President by this section to Secretaries of Defense, Commerce, Health and Human Services, and Homeland Security with respect to Coast Guard when not operating as part of Navy, was revoked by Ex. Ord. No. 13294, § 2, Mar. 28, 2003, 68 F.R. 15919, set out as a note under section 301 of this title.

## § 301b. Special pay: aviation career officers extending period of active duty

(a) BONUS AUTHORIZED.—An aviation officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on December 31, 2010, executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

(b) COVERED OFFICERS.—An aviation officer referred to in subsection (a) is an officer of a uniformed service who—

(1) is entitled to aviation career incentive pay under section 301a of this title;

(2) is in a pay grade below pay grade O–7;

(3) is qualified to perform operational flying duty; and

(4) has completed any active duty service commitment incurred for undergraduate aviator training or is within one year of completing such commitment.

(c) AMOUNT OF BONUS.—The amount of a retention bonus paid under this section may not be more than $25,000 for each year covered by the written agreement to remain on active duty.

(d) PRORATION.—The term of an agreement under subsection (a) and the amount of the bonus under subsection (c) may be prorated as long as such agreement does not extend beyond the date on which the officer making such agreement would complete 25 years of aviation service.

(e) PAYMENT OF BONUS.—Upon the acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed and may be paid by the Secretary in either a lump sum or installments.

(f) ADDITIONAL PAY.—A retention bonus paid under this section is in addition to any other pay and allowances to which an officer is entitled.

(g) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.

(h) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.

(i) REPORTS.—(1) Not later than February 15 of each year, the Secretaries concerned shall submit to the Secretary of Defense a report analyzing the effect of the provision of retention bonuses to aviation officers during the preceding fiscal year on the retention of qualified aviators.

(2) Not later than March 15 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of the reports submitted to the Secretary under paragraph (1) with regard to the preceding fiscal year, together with such comments and recommendations as the Secretary considers appropriate.

(j) DEFINITIONS.—In this section:

(1) The term ''aviation service'' means service performed by an officer (except a flight surgeon or other medical officer) while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.

(2) The term ''operational flying duty'' has the meaning given such term in section 301a(a)(6)(B) of this title.

(Added Pub. L. 96–342, title VIII, § 806(a)(i), Sept. 8, 1980, 94 Stat. 1095; amended Pub. L. 97–60, title I, § 113, Oct. 14, 1981, 95 Stat. 995; Pub. L. 98–94, title IX, § 904(a), Sept. 24, 1983, 97 Stat. 635; Pub. L. 98–525, title VI, § 622(a), Oct. 19, 1984, 98 Stat. 2540; Pub. L. 99–145, title VI, § 636, Nov. 8, 1985, 99 Stat. 648; Pub. L. 99–661, div. A, title VI, § 631(a), Nov. 14, 1986, 100 Stat. 3883; Pub. L. 100–180, div. A, title VI, § 622(a), Dec. 4, 1987, 101 Stat. 1100; Pub. L. 101–189, div. A, title VI, § 632(a), Nov. 29, 1989, 103 Stat. 1451; Pub. L. 102–190, div. A, title VI, § 612(a)(1), Dec. 5, 1991, 105 Stat. 1376; Pub. L. 102–484, div. A, title VI, § 612(c), title X, § 1054(a)(1), Oct. 23, 1992, 106 Stat. 2421, 2502; Pub. L. 103–160, div. A, title VI, § 613(a), Nov. 30, 1993, 107 Stat. 1681; Pub. L. 103–337, div. A, title VI, § 613(a), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title VI, § 613(a), title XV, § 1502(b), Feb. 10, 1996, 110 Stat. 359, 506; Pub. L. 104–201, div. A, title VI, § 613(a), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105–85, div. A, title VI, §§ 613(a), 616(a)–(d), Nov. 18, 1997, 111 Stat. 1786, 1787; Pub. L. 105–261, div. A, title VI, §§ 613(a), 615(a)(2), (c)(2), Oct. 17, 1998, 112 Stat. 2039–2041; Pub. L. 106–65, div. A, title VI, §§ 613(a), 615(a)–(f), title X, § 1067(2), Oct. 5, 1999, 113 Stat. 650, 651, 774; Pub. L. 106–398, § 1 [[div. A], title VI, § 623(a), title X, § 1087(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151, 1654A–291; Pub. L. 107–107, div. A, title VI, §§ 614(a), 616(a), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 107–314, div. A, title VI, § 614(a), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 108–136, div. A, title VI, § 614(a), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, § 614(a), Oct. 28, 2004, 118 Stat. 1947; Pub. L. 109–163, div. A, title VI, §§ 624(a), 687(b)(1), Jan. 6, 2006, 119 Stat. 3295, 3327; Pub. L. 109–364, div. A, title VI, § 614(a), Oct. 17, 2006, 120 Stat. 2248; Pub. L. 110–181, div. A, title VI, § 614(a), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title VI, § 614(a), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111–84, div. A, title VI, § 615(1), Oct. 28, 2009, 123 Stat. 2354.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (a). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (a). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, § 624(a), substituted ''December 31, 2006'' for ''December 31, 2005''.

Subsec. (g). Pub. L. 109–163, § 687(b)(1), amended heading and text of subsec. (g) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to repayment of bonus required when officer fails to complete total period of active duty.

2004—Subsec. (a). Pub. L. 108–375 substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (a). Pub. L. 108–136 substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (a). Pub. L. 107–314 substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (a). Pub. L. 107–107, § 614(a), substituted ''December 31, 2002'' for ''December 31, 2001''.

Subsec. (b)(4). Pub. L. 107–107, § 616(a), inserted ''or is within one year of completing such commitment'' before period at end.

2000—Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title VI, § 623(a)], substituted ''December 31, 2001,'' for ''December 31, 2000,''.

Subsec. (j)(2). Pub. L. 106–398, § 1 [[div. A], title X, § 1087(b)(1)], substituted ''section 301a(a)(6)(B)'' for ''section 301a(a)(6)(A)''.

1999—Subsec. (a). Pub. L. 106–65, § 613(a), substituted ''December 31, 2000,'' for ''December 31, 1999,''.

Subsec. (b)(2). Pub. L. 106–65, § 615(a)(1), (4), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''is in an aviation specialty designated by the Secretary concerned (with the approval of the Secretary of Defense in the case of the Secretary of a military department) as a critical aviation specialty;''.

Subsec. (b)(3). Pub. L. 106–65, § 615(a)(4), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Pub. L. 106–65, § 615(a)(2), substituted ''grade O–7'' for ''grade O–6''.

Subsec. (b)(4). Pub. L. 106–65, § 615(a)(4), redesignated par. (6) as (4). Former par. (4) redesignated (3).

Pub. L. 106–65, § 615(a)(3), inserted ''and'' at end.

Subsec. (b)(5). Pub. L. 106–65, § 615(a)(1), struck out par. (5) which read as follows: ''has completed at least six but less than 13 years of aviation service; and''.

Subsec. (b)(6). Pub. L. 106–65, § 615(a)(4), redesignated par. (6) as (4).

Subsec. (c). Pub. L. 106–65, § 615(b), substituted ''may not be more than $25,000 for each year covered by the written agreement to remain on active duty.'' for ''may

not be more than—'' and struck out pars. (1) and (2) which read as follows:

''(1) $25,000 for each year covered by the written agreement, if the officer agrees to remain on active duty to complete 14 years of commissioned service; or

''(2) $12,000 for each year covered by the written agreement, if the officer agrees to remain on active duty for one, two, or three years.''

Subsec. (d). Pub. L. 106–65, §615(c), substituted ''25 years of aviation service'' for ''14 years of commissioned service''.

Subsec. (g)(3). Pub. L. 106–65, §615(f), struck out at end ''This paragraph applies to any case commenced under title 11 after January 1, 1989.''

Subsec. (i)(1). Pub. L. 106–65, §615(d), struck out last sentence which read as follows: ''Each report shall include—

''(A) a comparison of the cost of paying bonuses to officers who enter into an agreement for the period referred to in subsection (c)(1) with the cost of paying bonuses to officers who enter into an agreement for a period referred to in subsection (c)(2); and

''(B) a description of the increase in the retention of qualified aviators as a result of the program.''

Subsec. (i)(2). Pub. L. 106–65, §1067(2), substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

Subsec. (j)(2) to (4). Pub. L. 106–65, §615(e), redesignated par. (4) as (2) and struck out former pars. (2) and (3) which read as follows:

''(2) The term 'aviation specialty' means a specific community of pilots identified by type of aircraft or weapon system or a specific community of other designated aeronautical officers so identified.

''(3) The term 'critical aviation specialty' means an aviation specialty in which there exists a shortage of officers on the date of designation under subsection (b).''

1998—Subsec. (a). Pub. L. 105–261, §613(a), substituted ''December 31, 1999,'' for ''September 30, 1999,''.

Subsec. (b)(5). Pub. L. 105–261, §615(c)(2), substituted ''aviation service'' for ''active duty''.

Subsec. (j)(1). Pub. L. 105–261, §615(a)(2), added par. (1) and struck out former par. (1) which read as follows: ''The term 'aviation service' means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer).''

1997—Subsec. (a). Pub. L. 105–85, §613(a), substituted ''September 30, 1999'' for ''September 30, 1998''.

Subsec. (c)(1). Pub. L. 105–85, §616(a)(1), substituted ''$25,000'' for ''$12,000''.

Subsec. (c)(2). Pub. L. 105–85, §616(a)(2), (b), substituted ''$12,000'' for ''$6,000'' and ''one, two, or three years'' for ''one or two years''.

Subsec. (i)(1). Pub. L. 105–85, §616(c), inserted ''and'' at end of subpar. (A), substituted a period for ''; and'' at end of subpar. (B), and struck out subpar. (C) which read as follows: ''an examination of the desirability of targeting the retention bonus program toward officers in a critical aviation specialty rather than on the basis of experience or other criteria.''

Subsec. (j)(2). Pub. L. 105–85, §616(d), inserted ''specific'' before ''community'' in two places.

1996—Subsec. (a). Pub. L. 104–201 substituted ''September 30, 1998,'' for ''September 30, 1997''.

Pub. L. 104–106, §613(a), substituted ''September 30, 1997'' for ''September 30, 1995,''.

Subsec. (i)(2). Pub. L. 104–106, §1502(b), substituted ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives'' for ''Committees on Armed Services of the Senate and House of Representatives''.

1994—Subsec. (a). Pub. L. 103–337 substituted ''September 30, 1995'' for ''September 30, 1994''.

1993—Subsec. (a). Pub. L. 103–160 substituted ''September 30, 1994'' for ''September 30, 1993''.

1992—Subsec. (a). Pub. L. 102–484, §612(c), substituted ''September 30, 1993'' for ''September 30, 1992''.

Subsecs. (j), (k). Pub. L. 102–484, §1054(a)(1), redesignated subsec. (k) as (j) and struck out former subsec. (j) which read as follows:

''(j) LIMITATION ON PAYMENTS FOR FISCAL YEAR 1990.—(1) The total amount of payments made under this section to officers of the Air Force during fiscal year 1990 may not exceed $78,000,000.

''(2) The total amount of payments made under this section to officers of the Navy during fiscal year 1990 may not exceed $30,000,000.''

1991—Subsec. (a). Pub. L. 102–190 substituted ''1992'' for ''1991''.

1989—Pub. L. 101–189 amended section generally, adding provisions set out in new subsecs. (a), (c), (d), and (h) to (k), revising and restating as subsecs. (b), (e), (f), and (g), provisions contained in former subsecs. (a), (b), and (d), and striking out provisions contained in former subsecs. (c), (e), and (f).

1987—Subsec. (a). Pub. L. 100–180, §622(a)(1), substituted cl. (5) and all that follows to end of first sentence for

''(5) executes a written agreement to remain on active duty in aviation service for at lest one year; and

''(6) is in an aviation specialty designated as critical;

may, upon the acceptance of the written agreement by the Secretary of Defense or the Secretary of Transportation, as applicable, be paid an amount not to exceed the product of four months' basic pay (computed at the rate applicable to the officer at the time the agreement is executed) and the number of years (or the monthly fractions thereof) that the officer agrees to remain on active duty under the agreement. An agreement under this section may not extend beyond the date on which the officer would complete 19 years of aviation service.''

Subsec. (e). Pub. L. 100–180, §621(a)(2), amended subsec. (e) generally, substituting provisions relating to acceptance of agreements during the period beginning on Oct. 1, 1987, and ending on Sept. 30, 1989, for provisions relating to acceptance of agreements during the period beginning on Oct. 1, 1983, and ending on Sept. 30, 1987, and struck out provision setting forth that an officer who receives special pay pursuant to an agreement under this section is not entitled to aviation career incentive pay that exceeds the rate for such pay in effect on Sept. 30, 1981.

Subsec. (f). Pub. L. 100–180, §622(a)(3), substituted ''September 30, 1989'' for ''September 30, 1987''.

1986—Subsec. (e)(3). Pub. L. 99–661, §631(a)(1), substituted ''officer has completed less than eight years of active duty'' for ''officer has completed less than seven years of active duty''.

Subsec. (e)(4). Pub. L. 99–661, §631(a)(2), struck out par. (4) which read as follows: ''An officer may not receive incentive pay under section 301 of this title for the performance of hazardous duty for any period of service which the officer is obligated to serve pursuant to an agreement entered into under this section.''

1985—Subsecs. (e)(2), (3), (f). Pub. L. 99–145 substituted ''September 30, 1987'' for ''September 30, 1985''.

1984—Subsec. (e)(2). Pub. L. 98–525, §622(a)(1), substituted ''During the period beginning on October 1, 1984, and ending on September 30, 1985, only agreements executed by officers of the Navy may be accepted under this section'' for ''During the period beginning on October 1, 1983, and ending on September 30, 1984, only agreements executed by officers of the Navy or Marine Corps who are pilots may be accepted under this section''.

Subsec. (e)(3). Pub. L. 98–525, §622(a)(2), substituted ''September 30, 1985'' for ''September 30, 1984'' in provisions preceding subpar. (A).

Subsec. (f). Pub. L. 98–525, §622(a)(2), substituted ''September 30, 1985'' for ''September 30, 1984''.

1983—Subsec. (e)(2). Pub. L. 98–94, §904(a)(1), substituted ''during the period beginning on October 1, 1983, and ending on September 30, 1984, only agreements executed by officers of the Navy or Marine Corps who

are pilots may be accepted under this section'' for ''during the period beginning on the date of the enactment of the Uniformed Services Pay Act of 1981 and ending on September 30, 1982, only agreements executed by officers of the Navy or Marine Corps may be accepted under this section''.

Subsec. (e)(3), (4). Pub. L. 98–94, § 904(a)(1), added pars. (3) and (4).

Subsec. (f). Pub. L. 98–94, § 904(a)(2), substituted ''September 30, 1984'' for ''September 30, 1982''.

1981—Subsecs. (e), (f). Pub. L. 97–60 added subsecs. (e) and (f).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, § 615(g), Oct. 5, 1999, 113 Stat. 651, provided that: ''The amendments made by this section [amending this section] shall take effect on October 1, 1999, and shall apply with respect to months beginning on or after that date.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 616(e) of Pub. L. 105–85 provided that: ''The amendments made by this section [amending this section] shall take effect as of October 1, 1996, and shall apply with respect to agreements accepted under section 301b of title 37, United States Code, on or after that date.''

EFFECTIVE DATE OF 1987 AMENDMENT

Section 622(b) of Pub. L. 100–180 provided that:

''(1) The amendments made by subsection (a) to subsections (a), (e), and (f) of section 301b of title 37, United States Code, shall apply to agreements entered into on or after October 1, 1987, and special pay may be paid as if such amendments were in effect on such date.

''(2) Such amendments shall not affect an agreement entered into under such section as in effect on September 30, 1987, and the provisions of such section as in effect on such day shall continue to apply with respect to such agreement.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 631(b) of Pub. L. 99–661 provided that: ''The amendments made by subsection (a) [amending this section] shall apply to payments made for periods beginning after the date of the enactment of this Act [Nov. 14, 1986] under agreements entered into under section 301b of title 37, United States Code.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 636 of Pub. L. 99–145 provided that the amendment made by that section is effective Oct. 1, 1985.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 622(a) of Pub. L. 98–525 provided that the amendment made by that section is effective Oct. 1, 1984.

EFFECTIVE DATE

Section 806(b) of Pub. L. 96–342 provided that: ''Agreements may not be entered into under section 301b of title 37, United States Code, as added by subsection (a), before October 1, 1980.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

PAYMENT OF BONUS TO AVIATION OFFICERS KILLED IN PERSIAN GULF WAR BEFORE COMPLETION OF SERVICE

Pub. L. 102–172, title VIII, § 8135, Nov. 26, 1991, 105 Stat. 1212, as amended by Pub. L. 105–277, div. C, title I, § 148, Oct. 21, 1998, 105 Stat. 2681–610, provided that:

''(a) Notwithstanding any provision of section 301b of title 37, United States Code, [or] of section 611 of Public Law 100–456 [set out below] as in effect at any time prior to the date of enactment of this Act [Nov. 26, 1991], in the case of any officer described in subsection (b), who was entitled to special pay under an agreement authorized by one of those sections, who was not paid the full amount due under such agreement, the unpaid balance shall be paid as part of the settlement of the officer's final military pay account or as a supplemental payment if the officer's final military pay account is already settled.

''(b) An officer to whom subsection (a) applies is an aviation officer who died as a result of flight operations on or after August 2, 1990, in those areas of the Arabian Peninsula, airspace, and adjacent waters designated by the President in Executive Order 12744 on 21 January 1991 [26 U.S.C. 112 note] as a combat zone (regardless of the date of the commencement of combatant activities in such zone as specified in that Executive Order) and prior to cessation of hostilities as declared by competent authority, before completing the full period of aviation service agreed to in his or her agreement to remain on active duty in aviation service under section 301b of title 37, United States Code, or section 611 of Public Law 100–456 [set out below].''

AGREEMENTS ENTERED INTO UNDER FORMER LAW

Section 632(c) of Pub. L. 101–189 provided that:

''(1) The amendment made by subsection (a) [amending this section] shall not affect an agreement entered into under section 301b of title 37, United States Code (as in effect on September 30, 1989), and, except as provided in paragraph (2), the provisions of such section as in effect on such day shall continue to apply with respect to such agreement.

''(2) For pay periods beginning after September 30, 1989, an officer serving under an agreement entered into under section 301b of such title before October 1, 1987, shall be entitled during the remainder of the agreement to the monthly rate of aviation career incentive pay specified in section 301a(b) of such title and corresponding to the officer's years of aviation service or years of service as an officer.''

COVERAGE OF PERIOD OF LAPSED AUTHORITY

Section 613(i) of Pub. L. 104–106 provided that:

''(1) In the case of an officer described in section 301b(b) of title 37, United States Code, who executes an agreement described in paragraph (2) during the 90-day period beginning on the date of the enactment of this Act [Feb. 10, 1996], the Secretary concerned may treat the agreement for purposes of the retention bonus authorized under the agreement as having been executed and accepted on the first date on which the officer would have qualified for such an agreement had the amendment made by subsection (a) [amending this section] taken effect on October 1, 1995.

''(2) An agreement referred to in this subsection is a service agreement with the Secretary concerned that is a condition for the payment of a retention bonus under section 301b of title 37, United States Code.

''(3) For purposes of this subsection, the term 'Secretary concerned' has the meaning given that term in section 101(5) of title 37, United States Code.''

Section 613(i) of Pub. L. 103–160 provided that:

''(1) In the case of an officer described in paragraph (2) who executes an agreement described in paragraph

(3) during the 90-day period beginning on the date of the enactment of this Act [Nov. 30, 1993], the Secretary concerned may treat the agreement for purposes of the retention bonus or special pay authorized under the agreement as having been executed and accepted on the first date on which the officer would have qualified for such an agreement had the amendments made by subsections (a) and (g) [amending this section and provisions set out as a note under section 302 of this title] taken effect on October 1, 1993.

''(2) An officer referred to in paragraph (1) is an officer described in section 301b(b) of title 37, United States Code, or in section 613(a)(2) of the National Defense Authorization Act, Fiscal Year 1989 [Pub. L. 100–456] ([former] 37 U.S.C. 302 note), who, during the period beginning on October 1, 1993, and ending on the date of the enactment of this Act, would have qualified for an agreement described in paragraph (3) had the amendments made by subsections (a) and (g) taken effect on October 1, 1993.

''(3) An agreement referred to in this subsection is a service agreement with the Secretary concerned that is a condition for the payment of a retention bonus under section 301b of title 37, United States Code, or special pay under section 613 of the National Defense Authorization Act, Fiscal Year 1989 ([former] 37 U.S.C. 302 note).

''(4) For purposes of this subsection, the term 'Secretary concerned' has the meaning given that term in section 101(5) of title 37, United States Code.''

Section 612(j)(2) of Pub. L. 102–484 provided that:

''(A) In the case of a person described in subparagraph (B) who executes an agreement described in subparagraph (C) during the 90-day period beginning on the date of the enactment of this Act [Oct. 23, 1992], the Secretary concerned may treat such agreement for purposes of the bonus or special pay authorized under such agreement as having been executed and accepted on the first date on which the person would have qualified for such an agreement had the amendments made by this section [amending this section and sections 302d, 302e, 308 to 308e, 308h, and 308i of this title and sections 2130a and 2172 [now 16302] of Title 10, Armed Forces] taken effect on October 1, 1992.

''(B) A person referred to in subparagraph (A) is a person who, during the period beginning on October 1, 1992, and ending on the date of the enactment of this Act, would have qualified for an agreement described in subparagraph (C) with the Secretary concerned had the amendments made by this section taken effect on October 1, 1992.

''(C) An agreement referred to in this paragraph is an agreement with the Secretary concerned for the payment of a bonus or special pay under section 301b, 302d, 302e, 308, 308a, 308b, 308c, 308e, 308h, or 308i of title 37, United States Code, or section 2130a of title 10, United States Code.

''(D) For purposes of this paragraph, the term 'Secretary concerned' has the meaning given that term in section 101(5) of title 37, United States Code.''

Section 612(a)(2) of Pub. L. 102–190 provided that:

''(A) In the case of an officer described in subparagraph (B) who executes an agreement under section 301b of such title [37 U.S.C. 301b] during the 90-day period beginning on the date of the enactment of this Act [Dec. 5, 1991], the Secretary concerned may treat such agreement as having been executed and accepted for purposes of such section on the first date on which the officer would have qualified for such an agreement had the amendment made by paragraph (1) [amending this section] taken effect on October 1, 1991.

''(B) An officer referred to in subparagraph (A) is an officer who, during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act, would have qualified for an agreement under such section had the amendment made by paragraph (1) taken effect on October 1, 1991.

''(C) For purposes of this paragraph, the term 'Secretary concerned' has the meaning given that term in section 101(5) of title 37, United States Code.''

Section 632(d) of Pub. L. 101–189 provided that:

''(1) In the case of an aviation officer described in paragraph (2) who executes an agreement under section 301b of title 37, United States Code, during the 90-day period beginning on the date of the enactment of this Act [Nov. 29, 1989], the Secretary concerned may deem such agreement to have been executed and accepted for purposes of such section on the first date on which the officer would have qualified for such an agreement had the amendment made by subsection (a) [amending this section] taken effect on October 1, 1989.

''(2) An aviation officer referred to in paragraph (1) is an officer who, during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act, would have qualified for an agreement under such section had the amendment made by subsection (a) taken effect on October 1, 1989.

''(3) For purposes of this subsection, the term 'Secretary concerned' has the meaning given that term by section 101(5) of title 37, United States Code.''

AVIATOR RETENTION BONUS

Pub. L. 100–456, div. A, title VI, § 611, Sept. 29, 1988, 102 Stat. 1977, as amended by Pub. L. 101–189, div. A, title VI, § 632(b), Nov. 29, 1989, 103 Stat. 1453, provided that a covered aviation officer who, during the period beginning on Jan. 1, 1989, and ending on Sept. 30, 1989, executed a written agreement to remain on active duty in aviation service for at least one year could, upon the acceptance of the written agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

SPECIAL PAY AS INDUCEMENT TO REMAIN ON ACTIVE DUTY; REPORT TO CONGRESS

Section 904(b) of Pub. L. 98–94 provided that:

''(1) It is the sense of the Congress that eligibility for special pay for aviation career officers under section 301b of title 37, United States Code, should be made available only to officers who will likely be induced to remain on active duty in aviation service by receipt of the special pay.

''(2) The Secretary of the Navy shall submit to the Congress not later than July 1, 1984, a written report, approved by the Secretary of Defense, on the payment of special pay for aviation career officers under section 301b of title 37, United States Code, since the date of the enactment of this Act [Sept. 24. 1983]. Such report shall include—

''(A) a list of the specific aviation specialties by aircraft type determined to be critical for purposes of the payment of special pay under such section since the date of the enactment of this Act;

''(B) the number of officers within each critical aviation specialty who received the special pay under such section since the date of the enactment of this Act by grade, years of prior active service, and amounts of special pay received under such section;

''(C) an explanation and justification for the Secretary's designation of an aviation specialty as 'critical' and for the payment of special pay under section 301b of such title to officers who have more than eight years of prior active service and who are serving in pay grade O–4 or above, if payment of such pay was made to such officers; and

''(D) an evaluation of the progress made since the date of the enactment of this Act toward eliminating shortages of aviators in the aviation specialties designated by the Secretary as critical.''

## § 301c. Incentive pay: submarine duty

(a) ELIGIBILITY REQUIREMENTS.—(1) Subject to regulations prescribed by the President, a member of the naval service who is entitled to basic pay, and (A) holds (or is in training leading to) a submarine duty designator, (B) is in and remains in the submarine service on a career

basis, and (C) meets the requirements of paragraph (3), is entitled to continuous monthly submarine duty incentive pay in the amount prescribed pursuant to subsection (b).

(2) Subject to regulations prescribed by the President, a member of the naval service who is entitled to basic pay but is not entitled to continuous monthly submarine duty incentive pay under paragraph (1) is entitled to submarine duty incentive pay in the amount prescribed pursuant to subsection (b) for any period during which such member performs frequent and regular operational submarine duty (as defined in paragraph (5)) required by orders.

(3) To be entitled to continuous monthly submarine duty incentive pay through 26 years of service (as computed under section 205 of this title, but excluding, in the case of an officer, periods as an enlisted member before initial appointment as an officer), a member must perform operational submarine duties for at least 6 of the first 12, and at least 10 of the first 18, years of his submarine service. However, if a member performs the prescribed operational submarine duties for at least 8 but less than 10 of the first 18 years of his submarine service, he is entitled to continuous monthly submarine duty incentive pay for the first 22 years of his service (as computed under section 205 of this title, but excluding, in the case of an officer, periods as an enlisted member before initial appointment as an officer).

(4) If upon completion of either 12 or 18 years of submarine service it is determined that a member has failed to perform the minimum prescribed operational submarine duty requirements during the prescribed periods of time, his entitlement to continuous monthly submarine duty incentive pay ceases. If entitlement to continuous monthly submarine duty incentive pay ceases upon completion of 12 years of submarine service, entitlement to that pay may again commence upon completion of 18 years of submarine service if the minimum operational submarine duty requirements have been met, and such pay shall continue for the period of time prescribed in accordance with this section. However, if entitlement to continuous monthly submarine duty incentive pay ceases in the case of any member at the completion of either 12 or 18 years of submarine service or 26 years of service (as computed under section 205 of this title, but excluding, in the case of an officer, periods as an enlisted member before initial appointment as an officer), such member shall be entitled to that pay in the amount prescribed pursuant to subsection (b) for the performance of subsequent operational submarine duty, or for the performance of service as a member of a submarine operational command staff, if such member's duties require serving on a submarine during underway operations.

(5) In this section:

(A) The term ''operational submarine duty'' means duty—

(i) while attached under competent orders to a submarine, while serving as an operator or crew member of an operational submersible (including an undersea exploration or research vehicle), while undergoing training preliminary to assignment to a nuclear-powered submarine, while undergoing rehabilitation after assignment to a nuclear-powered submarine, or, in the case of a member qualified in submarines, while attached as a member of a submarine operational command staff whose duties require serving on a submarine during underway operations—

(I) during one calendar month: 48 hours, except that hours served underway in excess of 48 as a member of a submarine operational command staff during any of the immediately preceding five calendar months and not already used to qualify for incentive pay may be applied to satisfy the underway time requirements for the current month;

(II) during any two consecutive calendar months when the requirements of subclause (I) of this clause have not been met: 96 hours; or

(III) during any three consecutive calendar months when the requirements of subclause (II) of this clause have not been met: 144 hours;

(ii) while receiving instruction to prepare for assignment to a submarine of advanced design, or

(iii) while receiving instruction to prepare for a position of increased responsibility on a submarine.

(B) The term ''submarine service'' means the service performed, under regulations prescribed by the Secretary of the Navy, by a member, and the years of submarine service are computed beginning with the effective date of the initial order to perform submarine service.

(b) MONTHLY RATES.—The Secretary of the Navy shall prescribe the monthly rates of submarine duty incentive pay, except that the maximum monthly rate may not exceed $1,000.

(c) EXCEPTIONS.—(1) An officer who fails of selection for assignment as an executive officer or commanding officer of a submarine or who declines to serve in either such position may not be paid submarine duty incentive pay except for periods during which the officer is serving on a submarine during underway operations.

(2) An enlisted member may not be paid continuous submarine duty incentive pay while serving ashore between submarine sea duty assignments unless the member has a sufficient period of enlistment (including any extension of an enlistment) remaining to be reassigned to submarine sea duty.

(d) APPLICABILITY TO CERTAIN NAVY RESERVE DUTY.—Under regulations prescribed by the President and to the extent provided for by appropriations, when a member of the Navy Reserve who is entitled to compensation under section 206 of this title, performs, under orders, duty on a submarine during underway operations, he is eligible for an increase in such compensation equal to one-thirtieth of the monthly incentive pay prescribed pursuant to subsection (b) for the performance of that duty by a member of a corresponding grade and years of service who is entitled to basic pay. Such a member is

eligible for the increase for each day served, for as long as he is qualified for it, during each regular period of appropriate duty.

(Added Pub. L. 96–579, § 3(d), Dec. 23, 1980, 94 Stat. 3360; amended Pub. L. 97–39, title VII, § 701(a), (b), Aug. 14, 1981, 95 Stat. 942; Pub. L. 97–60, title I, § 114, Oct. 14, 1981, 95 Stat. 995; Pub. L. 99–145, title VI, § 633(a), Nov. 8, 1985, 99 Stat. 646; Pub. L. 100–26, § 8(e)(4), Apr. 21, 1987, 101 Stat. 286; Pub. L. 100–180, div. A, title VI, § 623(a), (b), Dec. 4, 1987, 101 Stat. 1101; Pub. L. 100–224, § 5(a)(2), Dec. 30, 1987, 101 Stat. 1538; Pub. L. 100–456, div. A, title XII, § 1233(*l*)(1), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 101–510, div. A, title XIII, § 1322(c)(1), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title XI, § 1111(d)(2), Dec. 5, 1991, 105 Stat. 1492; Pub. L. 107–107, div. A, title VI, § 617(a), (b), Dec. 28, 2001, 115 Stat. 1137; Pub. L. 109–163, div. A, title V, § 515(d)(1)(D), (2), Jan. 6, 2006, 119 Stat. 3236.)

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve'' in heading and text.

2001—Subsec. (a). Pub. L. 107–107, § 617(b)(1), inserted heading and substituted ''prescribed pursuant to subsection (b)'' for ''set forth in subsection (b)'' in pars. (1), (2), and (4).

Subsec. (b). Pub. L. 107–107, § 617(a), inserted heading and amended text generally, substituting provisions relating to the Secretary's discretion in prescribing submarine duty incentive pay rates for tables specifying those rates.

Subsec. (c). Pub. L. 107–107, § 617(b)(2), inserted heading.

Subsec. (d). Pub. L. 107–107, § 617(b)(3), inserted heading and substituted ''prescribed pursuant to subsection (b)'' for ''authorized by subsection (b)''.

1991—Pub. L. 102–25 struck out ''of this section'' and ''of this subsection'' wherever appearing in subsecs. (a) and (d).

Subsec. (b). Pub. L. 102–190, in table pertaining to warrant officers, added provisions relating to pay grade W–5 in two places.

1990—Subsec. (e). Pub. L. 101–510 struck out subsec. (e) which read as follows: ''The Secretary of Defense shall report to the Congress before January 1 each year—

''(1) the number of enlisted members and officers, by pay grade, who, during the preceding fiscal year, had at least 12 but less than 18 years of submarine service and who were entitled to continuous monthly submarine duty incentive pay under subsection (a) of this section; and

''(2) the number of enlisted members and officers, by pay grade, who, during such fiscal year, had at least 18 years of submarine service and who were entitled to such incentive pay.

The Secretary shall include in each such report the number of enlisted members and the number of officers in each category referred to in the first sentence of this subsection, the number of such officers who, during the fiscal year concerned, were performing operational submarine duties, who were performing submarine command staff duties, and who were not performing submarine duties at all.''

1988—Subsec. (a). Pub. L. 100–456 made clarifying amendment to directory language of Pub. L. 100–180, § 623(a). See 1987 Amendment note below.

1987—Subsec. (a)(1), (2). Pub. L. 100–180, § 623(a), as amended by Pub. L. 100–456, substituted ''naval service'' for ''Navy''.

Subsec. (a)(5). Pub. L. 100–26 substituted ''In this section:'' for ''For the purposes of this section, the term—'', inserted ''The term'' at beginning of subpars. (A) and (B), and substituted ''operational'' for ''Operational'' and ''submarine'' for ''Submarine'' in subpars. (A) and (B), respectively.

Subsec. (b). Pub. L. 100–224 struck out, preceding table for enlisted members, ''(b) The monthly rates for special pay under subsection (a) are as follows:'' which had inadvertently been inserted as a second subsec. (b) by Pub. L. 100–180, § 623(b).

Pub. L. 100–180, § 623(b), amended tables generally so as to reflect an upward adjustment in monthly incentive pay rates for enlisted members, commissioned officers, and warrant officers of all pay grades and years of service encompassed by tables.

1985—Subsec. (b). Pub. L. 99–145 amended table pertaining to commissioned officers generally, so as to reflect an upward adjustment in monthly incentive pay rates for persons in pay grades O–6 through O–3 having over 18, over 20, over 22, and over 26 years of service, respectively.

1981—Subsec. (a)(1). Pub. L. 97–39, § 701(a), substituted provisions set forth as cls. (A) to (C) respecting conditions for continuous monthly submarine duty incentive pay for provisions relating to payment of incentive pay for the frequent and regular performance of operational submarine duty required by orders.

Subsec. (a)(2). Pub. L. 97–39, § 701(a), substituted provisions relating to payment of submarine duty incentive pay for provisions relating to restrictions on payment of submarine duty incentive pay.

Subsec. (a)(3), (4). Pub. L. 97–60 inserted '', but excluding, in the case of an officer, periods as an enlisted member before initial appointment as an officer'' after ''(as computed under section 205 of this title'' in three places.

Subsec. (a)(5)(A)(i). Pub. L. 97–39, § 701(b), inserted provisions relating to service as an operator or crew member of an operational submersible.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 applicable as if included in enactment of Pub. L. 100–180, see section 1233(*l*)(5) of Pub. L. 100–456, set out as a note under section 2366 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 623(c) of Pub. L. 100–180 provided that:

''(1) Subject to paragraph (2), the amendments made by this section [amending this section] shall take effect on the first day of the first month beginning after the date of the enactment of this Act [Dec. 4, 1987] and shall apply only with respect to duty performed on or after that date.

''(2) The amendments made by this section shall take effect only if legislation as described in section 3(c) is enacted [section 3(c) of Pub. L. 100–180, which is not classified to the Code].''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 633(b) of Pub. L. 99–145 provided that: ''The amendment made by this section [amending this section] shall take effect on October 1, 1985.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 701(c) of Pub. L. 97–39 provided that: ''The amendments made by this section [amending this section] shall take effect as of January 1, 1981.''

EFFECTIVE DATE

Section 3(g) of Pub. L. 96–579 provided: ''The amendments made by this subsection [probably means section 3 of Pub. L. 96–579, which enacted this section and

amended sections 301 and 308 of this title] shall become effective on the first day of the first month following the month in which this Act is enacted [December, 1980].''

DELEGATION OF FUNCTIONS

For delegation of authority under this section to Secretaries of Defense, Commerce, Health and Human Services, and Homeland Security when Coast Guard not serving as part of Navy, see section 1 of Ex. Ord. No. 13294, Mar. 28, 2003, 68 F.R. 15919, set out as a note under section 301 of this title.

TRANSITION PROVISIONS

Pub. L. 107–107, div. A, title VI, § 617(c), Dec. 28, 2001, 115 Stat. 1137, provided that: ''The tables set forth in subsection (b) of section 301c of title 37, United States Code, as in effect on the day before the date of the enactment of this Act [Dec. 28, 2001], shall continue to apply until the later of the following:

''(1) January 1, 2002.

''(2) The date on which the Secretary of the Navy prescribes new submarine duty incentive pay rates as authorized by the amendment made by subsection (a) [amending this section].''

## § 301d. Multiyear retention bonus: medical officers of the armed forces

(a) BONUS AUTHORIZED.—(1) A medical officer described in subsection (b) who executes a written agreement to remain on active duty for two, three, or four years after completion of any other active-duty service commitment may, upon acceptance of the written agreement by the Secretary of the military department concerned, be paid a retention bonus as provided in this section.

(2) The amount of a retention bonus under paragraph (1) may not exceed $75,000 for each year covered by a four-year agreement. The maximum yearly retention bonus for two-year and three-year agreements shall be reduced to reflect the shorter service commitment.

(b) ELIGIBLE OFFICERS.—This section applies to an officer of the armed forces who—

(1) is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer;

(2) is in a pay grade below pay grade O–7;

(3) has at least eight years of creditable service (computed as described in section 302(g) of this title) or has completed any active-duty service commitment incurred for medical education and training; and

(4) has completed initial residency training (or will complete such training before September 30 of the fiscal year in which the officer enters into an agreement under subsection (a)).

(c) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.

(Added Pub. L. 101–510, div. A, title VI, § 611(a)(1), Nov. 5, 1990, 104 Stat. 1576; amended Pub. L. 102–484, div. A, title X, § 1054(a)(2), Oct. 23, 1992, 106 Stat. 2502; Pub. L. 107–314, div. A, title VI, § 615(a), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 109–163, div. A, title VI, § 687(b)(2), Jan. 6, 2006, 119 Stat. 3327; Pub. L. 110–181, div. A, title VI, § 615(b), Jan. 28, 2008, 122 Stat. 150.)

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110–181 substituted ''$75,000'' for ''$50,000''.

2006—Subsec. (c). Pub. L. 109–163 amended heading and text of subsec. (c) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when officer fails to complete total period of active duty.

2002—Subsec. (a)(2). Pub. L. 107–314 substituted ''$50,000'' for ''$14,000''.

1992—Subsec. (c)(2). Pub. L. 102–484, § 1054(a)(2)(A), substituted ''owed'' for ''owned''.

Subsec. (c)(3). Pub. L. 102–484, § 1054(a)(2)(B), substituted ''November 5, 1990'' for ''the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991''.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VI, § 615(c), Jan. 28, 2008, 122 Stat. 150, provided that: ''The amendments made by this section [amending this section and section 302 of this title] shall apply with respect to agreements entered into under section 301d(a) or 302b(c) of title 37, United States Code, on or after the date of the enactment of this Act [Jan. 28, 2008].''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

APPLICATION OF INCREASE

Pub. L. 107–314, div. A, title VI, § 615(i), Dec. 2, 2002, 116 Stat. 2569, provided that: ''In the case of an amendment made by this section [amending sections 301d, 301e, 302, 302a, 302d, 302e, and 302i of this title and section 2130a of Title 10, Armed Forces] to increase the maximum amount of a special pay or bonus that may be paid during any 12-month period, the amended limitation shall apply to 12-month periods beginning after September 30, 2002.''

ELIGIBILITY OF FLAG AND GENERAL OFFICERS FOR MULTIYEAR RETENTION BONUS FOR MEDICAL OFFICERS

Pub. L. 102–190, div. A, title VI, § 615, Dec. 5, 1991, 105 Stat. 1377, provided that:

''(a) REITERATING INELIGIBILITY.—The restriction contained in subsection (b)(2) of section 301d of title 37, United States Code, on the eligibility of flag and general officers serving as full-time physicians to receive a multiyear retention bonus under that section shall not be construed as being limited, modified, or superseded by any provision of law, whether enacted before, on, or after the date of the enactment of this Act [Dec. 5, 1991], unless that provision of law—

''(1) specifically refers to that section and this subsection; and

''(2) identifies the flag and general officers affected by that provision.

''(b) SAVINGS PROVISION.—(1) A medical officer of the Armed Forces who is a flag or general officer and has received any payment of a bonus under section 301d of title 37, United States Code, before the date of the enactment of this Act [Dec. 5, 1991] may not be required to reimburse the United States for such payment by reason of the enactment of subsection (a).

''(2) A written agreement referred to in section 301d of title 37, United States Code, that was entered into on or after April 10, 1991, and before the date of the enactment of this Act [Dec. 5, 1991] by a medical officer of the Armed Forces referred to in paragraph (1) in exchange for a payment (or a promise of payment) of a

bonus under that section shall be terminated as of the later of—

''(A) the end of the month following the month in which this Act is enacted; or

''(B) the end of the period covered by the bonus payment or payments received by that officer as described in that paragraph.''

Pub. L. 102–172, title VIII, §8084, Nov. 26, 1991, 105 Stat. 1192, provided that: ''Restrictions provided under subsection (b)(2) of section 301d of title 37, United States Code, as authorized by the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510), and hereafter, shall not apply in the case of flag or general officers serving as full-time practicing physicians.''

TERMINATION OF EXISTING RETENTION BONUS AGREEMENT

Section 611(b) of Pub. L. 101–510 provided that:

''(1) Subject to the approval of the Secretary of the military department concerned, a medical officer who is eligible to enter into a retention bonus agreement under section 301d of title 37, United States Code (as added by subsection (a)) may terminate any existing retention bonus agreement entered into by that officer under [section] 612 of the National Defense Authorization Act, Fiscal Year 1989 [Pub. L. 100–456] (37 U.S.C. 302 note), in order to enter into an agreement under section 301d of such title containing an active-duty service obligation that is not less than the active-duty service obligation remaining under the existing agreement on the date of its termination.

''(2) Subsection (e) of section 612 of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note), shall not apply to the termination, pursuant to paragraph (1), of a retention bonus agreement under that section.''

## §301e. Multiyear retention bonus: dental officers of the armed forces

(a) BONUS AUTHORIZED.—(1) A dental officer described in subsection (b) who executes a written agreement to remain on active duty for two, three, or four years after completion of any other active-duty service commitment may, upon acceptance of the written agreement by the Secretary of the military department concerned, be paid a retention bonus as provided in this section.

(2) The amount of a retention bonus under paragraph (1) may not exceed $50,000 for each year covered by a four-year agreement. The maximum yearly retention bonus for two-year and three-year agreements shall be reduced to reflect the shorter service commitment.

(b) OFFICERS AUTOMATICALLY ELIGIBLE.—Subsection (a) applies to an officer of the armed forces who—

(1) is an officer of the Dental Corps of the Army or the Navy or an officer of the Air Force designated as a dental officer;

(2) has a dental specialty in oral and maxillofacial surgery;

(3) is in a pay grade below pay grade O–7;

(4) has at least eight years of creditable service (computed as described in section 302b(g)[1] of this title) or has completed any active-duty service commitment incurred for dental education and training; and

(5) has completed initial residency training (or will complete such training before September 30 of the fiscal year in which the officer enters into an agreement under subsection (a)).

(c) EXTENSION OF BONUS TO OTHER DENTAL OFFICERS.—At the discretion of the Secretary of the military department concerned, the Secretary may enter into a written agreement described in subsection (a)(1) with a dental officer who does not have the dental specialty specified in subsection (b)(2), and pay a retention bonus to such an officer as provided in this section, if the officer otherwise satisfies the eligibility requirements specified in subsection (b). The Secretaries shall exercise the authority provided in this section in a manner consistent with regulations prescribed by the Secretary of Defense.

(d) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.

(Added Pub. L. 105–85, div. A, title VI, §617(a), Nov. 18, 1997, 111 Stat. 1788; amended Pub. L. 107–314, div. A, title VI, §615(b), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 109–163, div. A, title VI, §687(b)(3), Jan. 6, 2006, 119 Stat. 3328.)

REFERENCES IN TEXT

Section 302b(g) of this title, referred to in subsec. (b)(4), was redesignated section 302b(f) of this title by Pub. L. 109–163, div. A, title VI, §687(b)(6)(D), Jan. 6, 2006, 119 Stat. 3328.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–163 amended heading and text of subsec. (d) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when officer fails to complete total period of active duty.

2002—Subsec. (a)(2). Pub. L. 107–314 substituted ''$50,000'' for ''$14,000''.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

APPLICATION OF INCREASE

In case of amendment by section 615 of Pub. L. 107–314 to increase maximum amount of special pay or bonus that may be paid during any 12-month period, the amended limitation is applicable to 12-month periods beginning after Sept. 30, 2002, see section 615(i) of Pub. L. 107–314, set out as a note under section 301d of this title.

## §302. Special pay: medical officers of the armed forces

(a) VARIABLE, ADDITIONAL, AND BOARD CERTIFICATION SPECIAL PAY.—(1) An officer who is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay in accordance with this subsection.

(2) An officer described in paragraph (1) who is serving in a pay grade below pay grade O–7 is en-

[1] See References in Text note below.

titled to variable special pay at the following rates:

(A) $1,200 per year, if the officer is undergoing medical internship training.

(B) $5,000 per year, if the officer has less than six years of creditable service and is not undergoing medical internship training.

(C) $12,000 per year, if the officer has at least six but less than eight years of creditable service.

(D) $11,500 per year, if the officer has at least eight but less than ten years of creditable service.

(E) $11,000 per year, if the officer has at least ten but less than twelve years of creditable service.

(F) $10,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

(G) $9,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

(H) $8,000 per year, if the officer has at least eighteen but less than twenty-two years of creditable service.

(I) $7,000 per year, if the officer has twenty-two or more years of creditable service.

(3) An officer described in paragraph (1) who is serving in a pay grade above pay grade O–6 is entitled to variable special pay at the rate of $7,000 per year.

(4) Subject to subsection (c), an officer entitled to variable special pay under paragraph (2) or (3) is entitled to additional special pay of $15,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

(5) An officer who is entitled to variable special pay under paragraph (2) or (3) and who is board certified is entitled to additional special pay at the following rates:

(A) $2,500 per year, if the officer has less than ten years of creditable service.

(B) $3,500 per year, if the officer has at least ten but less than twelve years of creditable service.

(C) $4,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

(D) $5,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

(E) $6,000 per year, if the officer has eighteen or more years of creditable service.

(b) INCENTIVE SPECIAL PAY.—(1) Subject to subsection (c) and paragraph (2) and under regulations prescribed under section 303a(a) of this title, an officer who is entitled to variable special pay under subsection (a)(2) may be paid incentive special pay for any twelve-month period during which the officer is not undergoing medical internship or initial residency training. The amount of incentive special pay paid to an officer under this subsection may not exceed $75,000 for any 12-month period.

(2) An officer is not eligible for incentive special pay under paragraph (1) unless the Secretary concerned has determined that such officer is qualified in the medical profession.

(c) ACTIVE-DUTY AGREEMENT.—(1) An officer may not be paid additional special pay under subsection (a)(4) or incentive special pay under subsection (b) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

(2) Under regulations prescribed by the Secretary of Defense under section 303a(a) of this title, the Secretary of the military department concerned may terminate at any time an officer's entitlement to the special pay authorized by subsection (a)(4) or (b)(1). If such entitlement is terminated, the officer concerned shall be subject to the repayment provisions of section 303a(e) of this title.

(d) REGULATIONS.—Regulations prescribed by the Secretary of Defense under section 303a(a) of this title shall include standards for determining—

(1) whether an officer is undergoing medical internship or initial residency training for purposes of subsections (a)(2)(A), (a)(2)(B), (a)(4), and (b)(1); and

(2) whether an officer is board certified for purposes of subsection (a)(5).

(e) FREQUENCY OF PAYMENTS.—Special pay payable to an officer under paragraphs (2), (3), and (5) of subsection (a) shall be paid monthly. Special pay payable to an officer under subsection (a)(4) or (b)(1) shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

(f) REPAYMENT.—An officer who does not complete the period for which the payment was made under subsection (a)(4) or subsection (b)(1) shall be subject to the repayment provisions of section 303a(e) of this title.

(g) DETERMINATION OF CREDITABLE SERVICE.—For purposes of this section, creditable service of an officer is computed by adding—

(1) all periods which the officer spent in medical internship or residency training during which the officer was not on active duty; and

(2) all periods of active service in the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

(h) RESERVE MEDICAL OFFICERS SPECIAL PAY.—(1) A reserve medical officer described in paragraph (2) is entitled to special pay at the rate of $450 a month for each month of active duty, including active duty in the form of annual training, active duty for training, and active duty for special work.

(2) A reserve medical officer referred to in paragraph (1) is a reserve officer who—

(A) is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer; and

(B) is on active duty under a call or order to active duty for a period of less than one year.

(i) EFFECT OF DISCHARGE IN BANKRUPTCY.—A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination

of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under subsection (c)(2) or (f). This paragraph applies to any case commenced under title 11 after September 30, 1985.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 464; Pub. L. 88–2, §5, Mar. 28, 1963, 77 Stat. 4; Pub. L. 88–132, §4, Oct. 2, 1963, 77 Stat. 212; Pub. L. 89–718, §53, Nov. 2, 1966, 80 Stat. 1122; Pub. L. 90–40, §5, June 30, 1967, 81 Stat. 105; Pub. L. 92–129, title I, §104, Sept. 28, 1971, 85 Stat. 355; Pub. L. 93–64, title II, §201, July 9, 1973, 87 Stat. 149; Pub. L. 93–274, §1(1), May 6, 1974, 88 Stat. 94; Pub. L. 96–284, §2(a), June 28, 1980, 94 Stat. 587; Pub. L. 96–513, title IV, §415, Dec. 12, 1980, 94 Stat. 2906; Pub. L. 99–145, title VI, §640, Nov. 8, 1985, 99 Stat. 652; Pub. L. 99–661, div. A, title XIII, §§1342(d), 1343(b)(1), Nov. 14, 1986, 100 Stat. 3991, 3995; Pub. L. 100–180, div. A, title VII, §716(a), Dec. 4, 1987, 101 Stat. 1113; Pub. L. 101–189, div. A, title VII, §702(a)–(f), Nov. 29, 1989, 103 Stat. 1468, 1469; Pub. L. 101–510, div. A, title VI, §612, Nov. 5, 1990, 104 Stat. 1577; Pub. L. 106–398, §1 [[div. A], title VI, §625(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–153; Pub. L. 107–314, div. A, title VI, §615(c), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 109–163, div. A, title VI, §687(b)(4), Jan. 6, 2006, 119 Stat. 3328; Pub. L. 110–181, div. A, title VI, §615(a), Jan. 28, 2008, 122 Stat. 150.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 302(a) ..... | 37:234(a). | Oct. 12, 1949, ch. 681, §203(a), (b) (less applicability to veterinarians), 63 Stat. 809; June 25, 1952, ch. 459, §1, 66 Stat. 156; June 29, 1953, ch. 138, §8 (less applicability to veterinarians), 67 Stat. 89; June 30, 1955, ch. 250, §203, 69 Stat. 225; Apr. 30, 1956, ch. 223, §5, 70 Stat. 122; Mar. 23, 1959, Pub. L. 86–4, §5, 73 Stat. 13. |
| 302(b) ..... | 37:234(b) (introductory clause and last proviso, less applicability to veterinarians). | |
| 302(c) ..... | 37:234(b) (less introductory clause, less provisos, and less applicability to veterinarians). 37:234(b) (1st and 2d provisos, less applicability to veterinarians). | |

In subsection (a), clause (1) is substituted for section 234(a)(1), (2), and (3) of existing title 37. The words ''of the Regular Army or the Regular Navy'' and ''of the Regular Air Force'' are inserted in clauses (1)(A) and (B), respectively, since, in contradistinction to section 234(a)(4) of existing title 37, their source was intended to apply only to regular officers. Clauses (2) (A) and (B) are substituted for the enumeration of categories in section 234(a)(4) of existing title 37 to reflect current usage and designation of those categories. Clause (3) is substituted for section 234(a)(5) and (6) of existing title 37.

In subsection (c), the words ''disability retirement pay'' are omitted as covered by the words ''retired pay''. Section 234(b) (2d proviso) of existing title 37 is omitted as obsolete.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110–181 substituted ''$75,000'' for ''$50,000''.

2006—Subsec. (c)(2). Pub. L. 109–163, §687(b)(4)(A), added second sentence and struck out former second sentence which read as follows: ''If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period of active duty that he served, and he may be required to refund any amount in excess of that entitlement.''

Subsec. (f). Pub. L. 109–163, §687(b)(4)(B), added subsec. (f) and struck out heading and text of former subsec. (f). Text read as follows: ''An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (a)(4) or (b)(1) shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.''

2002—Subsec. (b)(1). Pub. L. 107–314 inserted second sentence and struck out former second sentence which read as follows: ''No payment to an officer under this subsection may exceed $16,000 for any twelve-month period beginning in fiscal year 1990, $22,000 for any twelve-month period beginning in fiscal year 1991, $29,000 for any twelve-month period beginning in fiscal year 1992, and $36,000 for any twelve-month period beginning after fiscal year 1992.''

2000—Subsec. (h)(1). Pub. L. 106–398 inserted before period at end '', including active duty in the form of annual training, active duty for training, and active duty for special work''.

1990—Subsec. (a)(3). Pub. L. 101–510 substituted ''$7,000'' for ''$1,000''.

1989—Subsec. (a). Pub. L. 101–189, §702(f)(1), inserted heading.

Subsec. (a)(2). Pub. L. 101–189, §702(f)(9), struck out ''of this subsection'' after ''paragraph (1)'' in introductory provisions.

Subsec. (a)(2)(C) to (I). Pub. L. 101–189, §702(a), in subpar. (C), substituted ''$12,000'' for ''$10,000'', in subpar. (D), substituted ''$11,500'' for ''$9,500'', in subpar. (E), substituted ''$11,000'' for ''$9,000'', in subpar. (F), substituted ''$10,000'' for ''$8,000'', in subpar. (G), substituted ''$9,000'' for ''$7,000'', in subpar. (H), substituted ''$8,000'' for ''$6,000'', and in subpar. (I), substituted ''$7,000'' for ''$5,000''.

Subsec. (a)(3). Pub. L. 101–189, §702(f)(9), struck out ''of this subsection'' after ''paragraph (1)''.

Subsec. (a)(4). Pub. L. 101–189, §702(f)(9), struck out ''of this section'' after ''subsection (c)'' and ''of this subsection'' after ''paragraph (2) or (3)''.

Pub. L. 101–189, §702(b), struck out subpar. (A) designation, substituted ''is entitled to additional special pay of $15,000'' for ''who has less than ten years of creditable service is entitled to additional special pay of $9,000'', and struck out subpar. (B) which read as follows: ''Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has ten or more years of creditable service is entitled to additional special pay of $10,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.''

Subsec. (a)(5). Pub. L. 101–189, §702(f)(9), struck out ''of this subsection'' after ''paragraph (2) or (3)''.

Pub. L. 101–189, §702(c), in subpar. (A), substituted ''$2,500'' for ''$2,000'', in subpar. (B), substituted ''$3,500'' for ''$2,500'', in subpar. (C), substituted ''$4,000'' for ''$3,000'', in subpar. (D), substituted ''$5,000'' for ''$4,000'', and in subpar. (E), substituted ''$6,000'' for ''$5,000''.

Subsec. (b). Pub. L. 101–189, §702(f)(2), inserted heading.

Subsec. (b)(1). Pub. L. 101–189, §702(f)(9), struck out ''of this section'' after ''subsection (c)'' and ''subsection (a)(2)'' and struck out ''of this subsection'' after ''paragraph (2)''.

Pub. L. 101–189, §702(d), substituted ''$16,000 for any twelve-month period beginning in fiscal year 1990, $22,000 for any twelve-month period beginning in fiscal year 1991, $29,000 for any twelve-month period beginning in fiscal year 1992, and $36,000 for any twelve-month period beginning after fiscal year 1992'' for ''$8,000 for any twelve-month period unless the Secretary concerned determines that the officer is qualified and serving in a health profession skill which has been designated by the Secretary concerned as a critically needed wartime skill''.

Subsec. (b)(2). Pub. L. 101–189, §702(f)(9), struck out ''of this subsection'' after ''paragraph (1)''.

Subsec. (c). Pub. L. 101–189, § 702(f)(9), struck out ''of this section'' after ''subsection (a)(4)'' and ''subsection (b)'' in par. (1) and after ''or (b)(1)'' in par. (2).

Pub. L. 101–189, § 702(f)(3), inserted heading.

Subsec. (d). Pub. L. 101–189, § 702(f)(9), struck out ''of this section'' after ''and (b)(1)'' in par. (1) and after ''subsection (a)(5)'' in par. (2).

Pub. L. 101–189, § 702(f)(4), inserted heading.

Subsec. (e). Pub. L. 101–189, § 702(f)(9), struck out ''of this section'' after ''subsection (a)'' and ''or (b)(1)''.

Pub. L. 101–189, § 702(f)(5), inserted heading.

Subsec. (f). Pub. L. 101–189, § 702(f)(9), struck out ''of this section'' after ''or (b)(1)''.

Pub. L. 101–189, § 702(f)(6), inserted heading.

Subsec. (g). Pub. L. 101–189, § 702(f)(7), inserted heading.

Subsec. (h). Pub. L. 101–189, § 702(e), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows:

''(1) Any reserve officer who is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer—

''(A) who has served on active duty as a medical officer for not less than one year; and

''(B) who is on active duty under a call or order to active duty for a period of less than one year;

is entitled to special pay in accordance with this subsection.

''(2) An officer described in paragraph (1) of this subsection is entitled to special pay at the rate of—

''(A) $100 a month for each month of active duty, if he has not completed two years of active duty; or

''(B) $350 a month for each month of active duty, if he has completed at least two years of active duty.''

Subsec. (i). Pub. L. 101–189, § 702(f)(9), struck out ''of this section'' after ''or (f)''.

Pub. L. 101–189, § 702(f)(8), inserted heading.

1987—Subsec. (b)(1). Pub. L. 100–180, § 716(a)(1), (2), struck out ''in an amount not to exceed $8,000'' after ''incentive special pay'' and inserted at end ''No payment to an officer under this subsection may exceed $8,000 for any twelve-month period unless the Secretary concerned determines that the officer is qualified and serving in a health profession skill which has been designated by the Secretary concerned as a critically needed wartime skill.''

Subsec. (b)(3). Pub. L. 100–180, § 716(a)(3), struck out par. (3) which read as follows: ''The amount that may be paid for incentive special pay under this subsection in any fiscal year may not exceed an amount equal to 6 percent of the total amount paid in such year for special pay under subsection (a) of this section and paragraph (1) of this subsection.''

1986—Subsec. (h)(1)(B). Pub. L. 99–661, § 1342(d), amended subpar. (B) generally, substituting ''period of less than one year'' for ''period of not less than one year''.

Subsec. (i). Pub. L. 99–661, § 1343(b)(1), substituted ''subsection (c)(2) or (f) of this section'' for ''paragraph (1) of this subsection''.

1985—Subsec. (h)(1)(B). Pub. L. 99–145, § 640(1), substituted ''who is'' for ''is not''.

Subsec. (i). Pub. L. 99–145, § 640(2), added subsec. (i).

1980—Pub. L. 96–284, in revising text, added subsecs. (a) to (g) provisions covering special pay for medical officers of the armed forces, and struck out former provision for special pay of physicians in the Army, Navy, Air Force, and Public Health Service, amounting to $100 or $350 a month for each month of active duty in cases of active duty in named category of less than two years or two years or more of duty, now covered as to Public Health Service in section 302c of this title, and struck out prohibition against inclusion of active duty monthly special pay in computation of amount of increase in pay authorized in any other provision of this title or in computation of retired pay or severance pay.

Subsec. (h). Pub. L. 96–513 added subsec. (h).

1974—Pub. L. 93–274 reduced for uniformed services physicians the present four steps of special pay, which require the completion of ten years of active duty before attaining eligibility for the $350 per month maximum down to two steps, with the maximum being reached upon completion of two years of active duty, and repealed provisions relating to special pay for dentists. See section 302b of this title.

1973—Subsec. (a). Pub. L. 93–64 substituted ''July 1, 1975'' for ''July 1, 1973'' wherever appearing.

1971—Subsec. (a). Pub. L. 92–129 substituted ''July 1, 1973'' for ''July 1, 1971'' wherever appearing.

1967—Subsec. (a). Pub. L. 90–40 substituted ''July 1, 1971'' for ''July 1, 1967'' wherever appearing.

1966—Subsec. (b). Pub. L. 89–718 substituted ''or'' for ''and'' at end of par. (3).

1963—Subsec. (a). Pub. L. 88–2 substituted ''July 1, 1967'' for ''July 1, 1963'' wherever appearing.

Subsec. (b)(3), (4). Pub. L. 88–132 increased monthly special pay of officers completing at least six years of active duty from $200 to $250 in par. (3), and officers completing at least 10 years of active duty from $250 to $350 in par. (4).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 applicable with respect to agreements entered into under section 301d(a) or 302b(c) of this title on or after Jan. 28, 2008, see section 615(c) of Pub. L. 110–181, set out as a note under section 301d of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 702(g) of Pub. L. 101–189 provided that:

''(1) The amendments made by subsections (a) and (c) [amending this section] shall take effect on January 1, 1990.

''(2) The amendments made by subsections (b) and (d) [amending this section] shall apply to an agreement entered into under section 302(c)(1) of title 37, United States Code, on or after the date of the enactment of this Act [Nov. 29, 1989].

''(3) The amendment made by subsection (e) [amending this section] shall take effect on January 1, 1990, and shall apply to pay periods beginning on or after such date.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1342(d) of Pub. L. 99–661 effective Nov. 14, 1986, see section 1342(h)(1) of Pub. L. 99–661, set out as a note under section 301 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–513 effective July 1, 1980, see section 701(b)(2) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

Section 8 of Pub. L. 96–284 provided that: ''The amendments made by sections 2 and 3 [enacting section 302c of this title and amending this section and section 313 of this title] shall apply to special pay payable for periods beginning after the last day of the month in which this Act is enacted [June 1980].''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2 of Pub. L. 93–274, as amended by Pub. L. 94–273, § 2(18), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–361, title III, § 305, July 14, 1976, 90 Stat. 926; Pub. L. 95–114, § 1, Sept. 30, 1977, 91 Stat. 1046; Pub. L. 95–485, title VIII, § 801(a), Oct. 20, 1978, 92 Stat. 1619, which provided that the amendments made by this Act, enacting sections 302b and 313 of this title and amending this section and section 311 of this title, become effective on June 1, 1974, with the authority for the special pay provided by the amendments made by the first section of this Act, enacting sections 302b and 313 of this title and amending this section and section 311 of this title, to expire on Sept. 30, 1980, was repealed by Pub. L. 96–284, § 4(e), June 28, 1980, 94 Stat. 592.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–64 effective July 1, 1973, see section 206 of Pub. L. 93–64, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of this title.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

APPLICATION OF INCREASE

In case of amendment by section 615 of Pub. L. 107–314 to increase maximum amount of special pay or bonus that may be paid during any 12-month period, the amended limitation is applicable to 12-month periods beginning after Sept. 30, 2002, see section 615(i) of Pub. L. 107–314, set out as a note under section 301d of this title.

PROHIBITION ON USE OF APPROPRIATIONS TO PAY BONUSES TO CERTAIN REGULAR OR RESERVE MEDICAL OFFICERS OF PUBLIC HEALTH SERVICE

Pub. L. 102–394, title II, § 207, Oct. 6, 1992, 106 Stat. 1811, provided that: ''None of the funds made available by this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health or the Substance Abuse and Mental Health Services Administration.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–170, title II, § 207, Nov. 26, 1991, 105 Stat. 1127.

Pub. L. 101–517, title II, § 207, Nov. 5, 1990, 104 Stat. 2209.

Pub. L. 101–166, title II, § 208, Nov. 21, 1989, 103 Stat. 1177.

Pub. L. 100–202, § 101(h) [title II, § 208], Dec. 22, 1987, 101 Stat. 1329–256, 1329–274.

MEDICAL OFFICER RETENTION BONUS

Section 703(e)–(g) of Pub. L. 101–189, as amended by Pub. L. 102–25, title VII, § 705(b), Apr. 6, 1991, 105 Stat. 120, provided that, in the case of an agreement that was executed by a medical officer under section 612 of Pub. L. 100–456, formerly set out below, before Oct. 1, 1989, but that was not accepted by the Secretary concerned solely because of the limitation contained in section 612(h), the Secretary concerned could accept such agreement during the 90-day period beginning on Nov. 29, 1989.

Pub. L. 100–456, div. A, title VI, § 612, Sept. 29, 1988, 102 Stat. 1979, as amended by Pub. L. 101–189, div. A, title VII, § 703(a)–(d), Nov. 29, 1989, 103 Stat. 1469, 1470, provided that a covered medical officer who, during the period beginning on Jan. 1, 1989, and ending on Sept. 30, 1990, executed a written agreement to remain on active duty for at least two years after completion of any other active-duty service commitment could, upon acceptance of the written agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN SELECTED RESERVE

Pub. L. 100–456, div. A, title VI, § 613, Sept. 29, 1988, 102 Stat. 1981, as amended by Pub. L. 101–510, div. A, title VI, § 616, Nov. 5, 1990, 104 Stat. 1578; Pub. L. 103–160, div. A, title VI, § 613(g), Nov. 30, 1993, 107 Stat. 1681; Pub. L. 103–337, div. A, title VI, § 613(f), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title XV, § 1502(c)(5), Feb. 10, 1996, 110 Stat. 508, which established a pilot test program of special pay for officers of reserve components of the Armed Forces in critically short wartime health care professions who agreed to serve in the Selected Reserve, was repealed and reenacted as section 302g of this title by Pub. L. 104–106, div. A, title VI, § 614(a)(1), (c)(1), Feb. 10, 1996, 110 Stat. 360, 361.

[Pub. L. 104–106, div. A, title VI, § 614(c)(2), Feb. 10, 1996, 110 Stat. 361, provided that: ''The provisions of section 613 of the National Defense Authorization Act, Fiscal Year 1989 [Pub. L. 100–456, formerly set out as a note above], as in effect on the day before the date of the enactment of this Act [Feb. 10, 1996], shall continue to apply to agreements entered into under such section before such date.'']

PRESERVATION OF ENTITLEMENT FOR RESERVE MEDICAL OFFICERS

Pub. L. 96–513, title VI, § 641, Dec. 12, 1980, 94 Stat. 2954, as amended by Pub. L. 97–22, § 8(*o*), July 10, 1981, 97 Stat. 136, provided that: ''Any person—

''(1) who before June 30, 1980, served on active duty for not less than one year as a reserve officer of the Medical Corps or Dental Corps of the Army or the Medical Corps or Dental Corps of the Navy, as a reserve officer of the Air Force designated as a medical officer or dental officer, or as a reserve medical officer or dental officer of the Public Health Service; and

''(2) who after having so served on active duty for not less than one year received special pay under section 302 or 302b of title 37, United States Code, as in effect during the period beginning on May 6, 1974, and ending on June 30, 1980, for service performed during such period,

shall be considered to have been entitled to such pay as if that part of such section, as in effect during such period, which read 'who is on active duty for a period of at least one year' read 'who has served on active duty for not less than one year'.''

TRANSITION PROVISIONS

Section 7 of Pub. L. 96–284 provided that: ''Notwithstanding any provision of the amendments made by this Act; [see Short Title of 1980 Amendment note set out under section 101 of this title], and in accordance with regulations to be prescribed by the Secretary of Defense, any officer of the Army, Navy, or Air Force who at any time before the effective date of the amendments made by this Act [see Effective Date of 1980 Amendment note set out above] was entitled to special pay under section 302 of title 37, United States Code, and any officer who after such effective date would have become entitled to special pay under such section (as in effect on the day before such effective date) had such section continued in effect, shall be paid basic pay and special pay under section 302 of such title (as in effect on and after the effective date of the amendments made by this Act) in a total amount not less than the total amount of the basic pay (as in effect on the day before such date) and special pay applicable (or which would have been applicable) to such officer under sections 302, 311, and 313 of such title (as in effect on the day before such date and computed on the rates of basic pay as in effect on the day before such date).''

## § 302a. Special pay: optometrists

(a) REGULAR SPECIAL PAY.—Each of the following officers is entitled to special pay at the rate of $100 a month for each month of active duty:

(1) A commissioned officer—

(A) of the Regular Army, Regular Navy, or Regular Air Force who is designated as an optometry officer; or

(B) who is an optometry officer of the Regular Corps of the Public Health Service.

(2) A commissioned officer—

(A) of a Reserve component of the Army, Navy, or Air Force who is designated as an optometry officer; or

(B) who is an optometry officer of the Reserve Corps of the Public Health Service,

who is on active duty as a result of a call or order to active duty for a period of at least one year.

(3) A general officer of the Army or the Air Force appointed, from any of the categories named in clause (1) or (2), in the Army, Air Force, or the National Guard, as the case may be.

(b) RETENTION SPECIAL PAY.—(1) Under regulations prescribed under section 303a(a) of this title, the Secretary concerned may pay an officer described in paragraph (2) a retention special pay of not more than $15,000 for any twelve-month period during which the officer is not undergoing an internship or initial residency training.

(2) An officer referred to in paragraph (1) is an officer of a uniformed service who—

(A) is entitled to special pay under subsection (a);

(B) has completed any initial active-duty service commitment incurred for education and training; and

(C) is determined by the Secretary concerned to be qualified as an optometrist.

(3) An officer may not be paid retention special pay under paragraph (1) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

(4) The Secretary concerned may terminate at any time the eligibility of an officer to receive retention special pay under paragraph (1). An officer who does not complete the period for which the payment was made under paragraph (1) shall be subject to the repayment provisions of section 303a(e) of this title.

(Added Pub. L. 92–129, title II, § 202(a), Sept. 28, 1971, 85 Stat. 357; amended Pub. L. 93–64, title II, § 202, July 9, 1973, 87 Stat. 149; Pub. L. 95–114, § 2, Sept. 30, 1977, 91 Stat. 1046; Pub. L. 95–485, title VIII, § 801(b), Oct. 20, 1978, 92 Stat. 1619; Pub. L. 96–284, § 4(a), June 28, 1980, 94 Stat. 591; Pub. L. 100–26, § 8(d)(2), Apr. 21, 1987, 101 Stat. 285; Pub. L. 101–510, div. A, title VI, § 617(a), Nov. 5, 1990, 104 Stat. 1578; Pub. L. 104–201, div. A, title VI, § 614(a), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 106–398, § 1 [[div. A], title VI, § 626(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–153; Pub. L. 107–314, div. A, title VI, § 615(d), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 109–163, div. A, title VI, § 687(b)(5), Jan. 6, 2006, 119 Stat. 3328.)

AMENDMENTS

2006—Subsec. (b)(4). Pub. L. 109–163 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''The Secretary concerned may terminate at any time the eligibility of an officer to receive retention special pay under paragraph (1). If such eligibility is terminated, the officer concerned shall receive such special pay only for the part of the period of active duty that the officer served and may be required to refund any amount in excess of that amount.''

2002—Subsec. (b)(1). Pub. L. 107–314 substituted ''$15,000'' for ''$6,000''.

2000—Subsec. (b)(1). Pub. L. 106–398 substituted ''the Secretary concerned may pay an officer described in paragraph (2) a'' for ''an officer described in paragraph (2) may be paid''.

1996—Subsec. (b)(2). Pub. L. 104–201, § 614(a)(1)(A), substituted ''a uniformed service'' for ''an armed force'' in introductory provisions.

Subsec. (b)(2)(C). Pub. L. 104–201, § 614(a)(1)(B), struck out ''of the military department'' before ''concerned to be''.

Subsec. (b)(4). Pub. L. 104–201, § 614(a)(2), struck out ''of the military department'' before ''concerned may terminate''.

1990—Pub. L. 101–510 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1987—Pub. L. 100–26 substituted ''A'' for ''a'' at beginning of pars. (1) to (3), ''; or'' for '', or'' at end of par. (1)(A), period for semicolon at end of par. (1)(B), and period for ''; and'' at end of par. (2).

1980—Pub. L. 96–284 substituted ''Each'' for ''(a) In addition to any other basic pay, special pay, incentive pay or allowance to which he is entitled, each'', struck out ''beginning on or after October 1, 1977'' after ''active duty'', struck out subsec. (b) which prohibited inclusion of active duty monthly special pay in computation of amount of increase in pay authorized in any other provision of this title or in computation of retired pay or severance pay, and struck out subsec. (c) which provided that no special pay be paid for any month after September 1980.

1978—Subsec. (c). Pub. L. 95–485 substituted ''September 1980'' for ''September 1978''.

1977—Subsec. (a). Pub. L. 95–114 amended subsec. (a) to provide for the reinstatement of special pay provisions for optometrists for each month on active duty beginning on or after Oct. 1, 1977.

Subsecs. (b), (c). Pub. L. 95–114 reenacted subsec. (b) without change and added subsec. (c).

1973—Subsec. (a). Pub. L. 93–64 substituted ''July 1, 1975'' for ''July 1, 1973'' wherever appearing.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 4 of Pub. L. 95–114 provided that: ''The amendments made by sections 2 and 3 of this Act [amending this section and section 303 of this title] become effective on October 1, 1977.''

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–64 effective July 1, 1973, see section 206 of Pub. L. 93–64, set out as a note under section 401 of this title.

EFFECTIVE DATE

Section 209 of title II of Pub. L. 92–129 provided that: ''The foregoing provisions of this title [enacting this section and section 428 of this title and amending sections 203 and 403 of this title and sections 2204 and 2207 of Title 50, Appendix, War and National Defense] shall become effective on October 1, 1971, except that section 203 [enacting section 308a of this title] shall become effective on such date as shall be prescribed by the Secretary of Defense, but not earlier than February 1, 1971, and section 206 [amending section 2203 of Title 50, Appendix] shall become effective July 1, 1971.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

APPLICATION OF INCREASE

In case of amendment by section 615 of Pub. L. 107–314 to increase maximum amount of special pay or bonus that may be paid during any 12-month period, the amended limitation is applicable to 12-month periods beginning after Sept. 30, 2002, see section 615(i) of Pub. L. 107–314, set out as a note under section 301d of this title.

IMPLEMENTATION OF SUBSECTION (b)

Pub. L. 101–510, div. A, title VI, § 617(b), Nov. 5, 1990, 104 Stat. 1579, provided that the Secretary of Defense could not implement subsec. (b) of this section, unless the Secretary submitted to the Committees on Armed Services of the Senate and House of Representatives a report justifying the need of the military departments for the authority provided in such subsection and describing the manner in which that authority would be implemented, prior to repeal by Pub. L. 106–398, § 1 [[div. A], title VI, § 626(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–153.

PAY CONTINUATION

Enactment of this section not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92–129, set out as a note under section 203 of this title.

## § 302b. Special pay: dental officers of the armed forces

(a) VARIABLE, ADDITIONAL, BOARD CERTIFICATION, AND INCENTIVE SPECIAL PAY.—(1) An officer who—

(A) is an officer of the Dental Corps of the Army or the Navy or an officer of the Air Force designated as a dental officer; and

(B) is on active duty under a call or order to active duty for a period of not less than one year,

is entitled to special pay in accordance with this subsection.

(2) An officer described in paragraph (1) who is serving in a pay grade below pay grade O–7 is entitled to variable special pay at the following rates:

(A) $3,000 per year, if the officer is undergoing dental internship training or has less than three years of creditable service.

(B) $7,000 per year, if the officer has at least three but less than six years of creditable service and is not undergoing dental internship training.

(C) $7,000 per year, if the officer has at least six but less than eight years of creditable service.

(D) $12,000 per year, if the officer has at least eight but less than 12 years of creditable service.

(E) $10,000 per year, if the officer has at least 12 but less than 14 years of creditable service.

(F) $9,000 per year, if the officer has at least 14 but less than 18 years of creditable service.

(G) $8,000 per year, if the officer has 18 or more years of creditable service.

(3) An officer described in paragraph (1) who is serving in a pay grade above pay grade O–6 is entitled to variable special pay at the rate of $7,000 per year.

(4) An officer who is entitled to variable special pay under paragraph (2) or (3) is also entitled to additional special pay for any 12-month period during which an agreement executed under subsection (b) is in effect with respect to the officer. Such additional special pay shall be paid at a rate determined by the Secretary concerned, which rate may not exceed the following:

(A) $10,000 per year, if the officer has less than three years of creditable service.

(B) $12,000 per year, if the officer has at least three but less than 10 years of creditable service.

(C) $15,000 per year, if the officer has 10 or more years of creditable service.

(5) An officer who is entitled to variable special pay under paragraph (2) or (3) and who is board certified is entitled to additional special pay at the following rates:

(A) $2,500 per year, if the officer has less than 10 years of creditable service.

(B) $3,500 per year, if the officer has at least 10 but less than 12 years of creditable service.

(C) $4,000 per year, if the officer has at least 12 but less than 14 years of creditable service.

(D) $5,000 per year, if the officer has at least 14 but less than 18 years of creditable service.

(E) $6,000 per year, if the officer has 18 or more years of creditable service.

(6) An officer described in paragraph (1) who is an oral or maxillofacial surgeon may be paid incentive special pay at the same rates, and subject to the same terms and conditions, as incentive special pay available for medical officers under section 302(b) of this title.

(b) ACTIVE-DUTY AGREEMENT.—(1) An officer may not be paid additional special pay under paragraph (4) or (6) of subsection (a) for any 12-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

(2) Under regulations prescribed by the Secretary of Defense under section 303a(a) of this title, the Secretary of the military department concerned may terminate at any time an officer's entitlement to the special pay authorized by paragraph (4) or (6) of subsection (a). If such entitlement is terminated, the officer concerned shall be subject to the repayment provisions of section 303a(e) of this title.

(c) REGULATIONS.—Regulations prescribed by the Secretary of Defense under section 303a(a) of this title shall include standards for determining—

(1) whether an officer is undergoing internship or residency training for purposes of subsections (a)(2)(A), (a)(2)(B), and (a)(4); and

(2) whether an officer is board certified for purposes of subsection (a)(5).

(d) FREQUENCY OF PAYMENTS.—Special pay payable to an officer under paragraphs (2), (3), and (5) of subsection (a) shall be paid monthly. Special pay payable to an officer under paragraph (4) or (6) of subsection (a) shall be paid annually at the beginning of the 12-month period for which the officer is entitled to such payment.

(e) REPAYMENT.—An officer who does not complete the period of active duty specified in the

agreement referred to in subsection (b) shall be subject to the repayment provisions of section 303a(e) of this title.

(f) DETERMINATION OF CREDITABLE SERVICE.—For purposes of this section, creditable service of an officer is computed by adding—

(1) all periods which the officer spent in dental internship or residency training during which the officer was not on active duty; and

(2) all periods of active service in the Dental Corps of the Army or Navy, as an officer of the Air Force designated as a dental officer, or as a dental officer of the Public Health Service.

(g) RESERVE DENTAL OFFICERS SPECIAL PAY.—(1) A reserve dental officer described in paragraph (2) is entitled to special pay at the rate of $350 a month for each month of active duty, including active duty in the form of annual training, active duty for training, and active duty for special work.

(2) A reserve dental officer referred to in paragraph (1) is a reserve officer who—

(A) is an officer of the Dental Corps of the Army or the Navy or an officer of the Air Force designated as a dental officer; and

(B) is on active duty under a call or order to active duty for a period of less than one year.

(Added Pub. L. 93–274, § 1(2), May 6, 1974, 88 Stat. 94; amended Pub. L. 96–284, § 4(b), June 28, 1980, 94 Stat. 591; Pub. L. 99–145, title VI, § 639(a), Nov. 8, 1985, 99 Stat. 649; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–201, div. A, title VI, § 615(a), (b), (e), Sept. 23, 1996, 110 Stat. 2545, 2547; Pub. L. 105–85, div. A, title VI, § 618, Nov. 18, 1997, 111 Stat. 1789; Pub. L. 109–163, div. A, title VI, §§ 625, 626, 687(b)(6), Jan. 6, 2006, 119 Stat. 3295, 3328; Pub. L. 109–364, div. A, title VI, § 615(a), Oct. 17, 2006, 120 Stat. 2249; Pub. L. 110–181, div. A, title VI, § 616(a), Jan. 28, 2008, 122 Stat. 150.)

AMENDMENTS

2008—Subsec. (a)(4). Pub. L. 110–181, § 616(a)(1), substituted ''at a rate determined by the Secretary concerned, which rate may not exceed the following'' for ''at the following rates'' in introductory provisions.

Subsec. (a)(4)(A). Pub. L. 110–181, § 616(a)(2), substituted ''$10,000'' for ''$4,000''.

Subsec. (a)(4)(B). Pub. L. 110–181, § 616(a)(3), substituted ''$12,000'' for ''$6,000''.

2006—Subsec. (a). Pub. L. 109–163, § 625(a)(1), substituted ''Board Certification, and Incentive'' for ''and Board Certification'' in heading.

Subsec. (a)(4). Pub. L. 109–364 in introductory provisions substituted ''An officer who is entitled to variable special pay under paragraph (2) or (3) is also entitled to additional special pay for any 12-month period during which an agreement executed under subsection (b) is in effect with respect to the officer'' for ''Subject to subsection (b), an officer entitled to variable special pay under paragraph (2) or (3) also is entitled to additional special pay for any 12-month period during which the officer is not undergoing dental internship or initial residency training''.

Pub. L. 109–163, § 626, inserted ''also'' before ''is entitled'' and ''initial'' before ''residency'' in introductory provisions.

Subsec. (a)(6). Pub. L. 109–163, § 625(a)(2), added par. (6).

Subsec. (b). Pub. L. 109–163, § 625(b), substituted ''paragraph (4) or (6) of subsection (a)'' for ''subsection (a)(4)'' in two places.

Subsec. (b)(2). Pub. L. 109–163, § 687(b)(6)(A), added second sentence and struck out former second sentence which read as follows: ''If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period on active duty that the officer served, and the officer may be required to refund any amount in excess of that entitlement.''

Subsec. (d). Pub. L. 109–163, § 625(b), substituted ''paragraph (4) or (6) of subsection (a)'' for ''subsection (a)(4)''.

Subsec. (e). Pub. L. 109–163, § 687(b)(6)(B), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: ''An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (a)(4) shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.''

Subsecs. (f) to (h). Pub. L. 109–163, § 687(b)(6)(C), (D), redesignated subsecs. (g) and (h) as (f) and (g), respectively, and struck out heading and text of former subsec. (f). Text read as follows: ''A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (b) if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of a period which such person had agreed to serve on active duty. This subsection applies to a discharge in bankruptcy in any proceeding which begins after September 30, 1985.''

1997—Subsec. (a)(2)(C) to (G). Pub. L. 105–85, § 618(a), added subpars. (C) to (G) and struck out former subpars. (C) to (F) which read as follows:

''(C) $7,000 per year, if the officer has at least six but less than 10 years of creditable service.

''(D) $6,000 per year, if the officer has at least 10 but less than 14 years of creditable service.

''(E) $4,000 per year, if the officer has at least 14 but less than 18 years of creditable service.

''(F) $3,000 per year, if the officer has 18 or more years of creditable service.''

Subsec. (a)(3). Pub. L. 105–85, § 618(b), substituted ''$7,000'' for ''$1,000''.

Subsec. (a)(4)(B) to (D). Pub. L. 105–85, § 618(c), added subpars. (B) and (C) and struck out former subpars. (B) to (D) which read as follows:

''(B) $6,000 per year, if the officer has at least three but less than 14 years of creditable service.

''(C) $8,000 per year, if the officer has at least 14 but less than 18 years of creditable service.

''(D) $10,000 per year, if the officer has at least 18 or more years of creditable service.''

1996—Subsec. (a). Pub. L. 104–201, § 615(e)(1), inserted heading.

Subsec. (a)(2). Pub. L. 104–201, § 615(a)(1), substituted ''$3,000'' for ''$1,200'' in subpar. (A), ''$7,000'' for ''$2,000'' in subpar. (B), and ''$7,000'' for ''$4,000'' in subpar. (C).

Subsec. (a)(4). Pub. L. 104–201, § 615(a)(2), added subpars. (A) to (D) and struck out former subpars. (A) to (C) which read as follows:

''(A) $6,000 per year, if the officer has at least three but less than 14 years of creditable service.

''(B) $8,000 per year, if the officer has at least 14 but less than 18 years of creditable service.

''(C) $10,000 per year, if the officer has 18 or more years of creditable service.''

Subsec. (a)(5). Pub. L. 104–201, § 615(a)(3), added subpars. (A) to (E) and struck out former subpars. (A) to (C) which read as follows:

''(A) $2,000 per year, if the officer has less than 12 years of creditable service.

''(B) $3,000 per year, if the officer has at least 12 but less than 14 years of creditable service.

''(C) $4,000 per year, if the officer has 14 or more years of creditable service.''

Subsecs. (b) to (g). Pub. L. 104–201, § 615(e)(2)–(7), inserted headings.

Subsec. (h). Pub. L. 104–201, § 615(b), added subsec. (h).

1991—Pub. L. 102–25 struck out ''of this section'' wherever appearing, except in subsec. (g), and struck out ''of this subsection'' wherever appearing.

1985—Pub. L. 99–145 amended section generally, substituting ''Special pay: dental officers of the armed forces'' for ''Special pay: dentists'' in section catchline and new text for former text which read as follows: ''An officer of the Army or Navy in the Dental Corps, an officer of the Air Force who is designated as a dental officer, or a dental officer of the Public Health Service, who is on active duty for a period of at least one year is entitled to special pay at the following rates—

''(1) $100 a month for each month of active duty if he has not completed two years of active duty in the Dental Corps or as a dental officer;

''(2) $150 a month for each month of active duty if he has completed at least two years of active duty in the Dental Corps or as a dental officer;

''(3) $250 a month for each month of active duty if he has completed at least six years of active duty in the Dental Corps or as a dental officer; or

''(4) $350 a month for each month of active duty if he has completed at least ten years of active duty in the Dental Corps or as a dental officer.''

1980—Pub. L. 96–284 struck out '', in addition to any other pay or allowances to which he is entitled,'' after ''entitled'' and last sentence containing prohibition against inclusion of active duty monthly special pay in computation of amount of increase in pay authorized in any other provision of this title or in computation of retired pay or severance pay.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VI, § 616(b), Jan. 28, 2008, 122 Stat. 150, provided that: ''The amendments made by this section [amending this section] shall apply with respect to agreements entered into under section 302b(b) of title 37, United States Code, on or after the date of the enactment of this Act [Jan. 28, 2008].''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title VI, § 615(b), Oct. 17, 2006, 120 Stat. 2249, provided that: ''The amendment made by this section [amending this section] shall take effect on October 1, 2006.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 639(f) of Pub. L. 99–145 provided that: ''The amendments made by this section [amending this section, repealing section 311 of this title, and enacting provisions set out as notes under this section] take effect on October 1, 1985.''

EFFECTIVE DATE

Section effective June 1, 1974, see section 2 of Pub. L. 93–274, set out as an Effective Date of 1974 Amendment note under section 302 of this title.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

AUTHORITY FOR CERTAIN DENTAL OFFICERS TO EXECUTE NEW AGREEMENTS

Section 639(c) of Pub. L. 99–145 provided that:

''(1) Subject to paragraphs (2) and (3), a dental officer who on October 1, 1985, is performing obligated service under an agreement under section 311 of title 37, United States Code, that—

''(A) was executed after June 29, 1985; and

''(B) is affected by the limitation in section 8091 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98–473), may execute a new agreement under section 302b of such title (as amended by subsection (a)).

''(2) A dental officer may not execute a new agreement under paragraph (1) unless the amount that may be paid such officer under an agreement under section 302b of title 37, United States Code (as amended by subsection (a)), is greater than the amount to be paid the officer under the existing agreement of the officer under section 311 of such title.

''(3) In executing a written agreement under paragraph (1), the officer shall agree to remain on active duty for an additional length of time equal to or exceeding the length of time originally required by the existing agreement, beginning on the date the officer accepts the award of special pay under the new agreement.

''(4) If a new agreement is executed under this subsection, the existing agreement of the officer shall be canceled.

''(5) For the purposes of this section, the term 'dental officer' has the meaning given that term in section 101 of title 10, United States Code.''

MINIMUM SPECIAL PAY

Section 639(d) of Pub. L. 99–145, as amended by Pub. L. 99–661, div. A, title XIII, § 1342(c), Nov. 14, 1986, 100 Stat. 3991, provided that:

''(1) An officer described in paragraph (2) who, after September 30, 1985, is entitled to special pay under section 302b of title 37, United States Code (as amended by subsection (a)), may (notwithstanding the provisions of such section and in the discretion of the Secretary concerned) be paid such pay, in order to prevent inequities, in an annual amount equal to the total annual amount of dental continuation pay under section 311 of title 37, United States Code, and special pay for dental officers under section 302b of that title to which that officer would have been entitled on September 30, 1985, in accordance with the status of the officer (as determined by the Secretary concerned) during the period for which the pay is paid. Notwithstanding the preceding sentence, an officer may not be paid special pay by reason of this paragraph in an amount greater than the amount of special pay to which the officer was entitled under such sections on September 30, 1985.

''(2) Paragraph (1) applies to an officer who on September 30, 1985, is entitled to dental continuation pay under section 311 of title 37, United States Code; or to special pay for dental officers under section 302b of that title.''

[Amendment of this note by Pub. L. 99–661 effective Nov. 14, 1986, see section 1342(h)(1) of Pub. L. 99–661, set out as an Effective Date of 1986 Amendment note under section 301 of this title.]

## § 302c. Special pay: psychologists and nonphysician health care providers

(a) PUBLIC HEALTH SERVICE CORPS.—A member who is—

(1) an officer in the Regular or Reserve Corps of the Public Health Service and is designated as a psychologist; and

(2) has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology,

is entitled to special pay, as provided in subsection (b).

(b) RATE OF SPECIAL PAY.—The rate of special pay to which an officer is entitled pursuant to subsection (a) shall be—

(1) $2,000 per year, if the officer has less than 10 years of creditable service;

(2) $2,500 per year, if the officer has at least 10 but less than 12 years of creditable service;

(3) $3,000 per year, if the officer has at least 12 but less than 14 years of creditable service;

(4) $4,000 per year, if the officer has at least 14 but less than 18 years of creditable service; or

(5) $5,000 per year, if the officer has 18 or more years of creditable service.

(c) ARMY, NAVY, AND AIR FORCE PSYCHOLOGISTS.—The Secretary of Defense may provide special pay at the rates specified in subsection (b) to an officer who—

(1) is an officer in the Medical Service Corps of the Army or Navy or a biomedical sciences officer in the Air Force;

(2) is designated as a psychologist; and

(3) has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology.

(d) NONPHYSICIAN HEALTH CARE PROVIDERS.—The Secretary concerned may authorize the payment of special pay at the rates specified in subsection (b) to an officer who—

(1) is an officer in the Medical Service Corps of the Army or Navy, a biomedical sciences officer in the Air Force, an officer in the Army Medical Specialist Corps, an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, an officer of the Coast Guard or Coast Guard Reserve designated as a physician assistant, or an officer in the Regular or Reserve Corps of the Public Health Service;

(2) is a health care provider (other than a psychologist);

(3) has a postbaccalaureate degree; and

(4) is certified by a professional board in the officer's specialty.

(Added Pub. L. 100–140, § 2(a), Oct. 26, 1987, 101 Stat. 830; amended Pub. L. 101–189, div. A, title VII, § 704(a), (b)(1), (c), Nov. 29, 1989, 103 Stat. 1471; Pub. L. 101–510, div. A, title VI, § 618(a), Nov. 5, 1990, 104 Stat. 1579; Pub. L. 102–25, title VII, § 702(a)(2)(A), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title VI, § 611, Oct. 23, 1992, 106 Stat. 2420; Pub. L. 104–106, div. A, title VI, § 617, Feb. 10, 1996, 110 Stat. 362; Pub. L. 104–201, div. A, title VI, § 614(b), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105–85, div. A, title X, § 1073(c)(5), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 106–398, § 1 [[div. A], title VI, § 627], Oct. 30, 2000, 114 Stat. 1654, 1654A–153; Pub. L. 110–181, div. A, title X, § 1063(b), Jan. 28, 2008, 122 Stat. 322.)

PRIOR PROVISIONS

A prior section 302c, added Pub. L. 96–284, § 3(a)(1), June 28, 1980, 94 Stat. 589, related to special pay for medical officers of the Public Health Service, prior to repeal by Pub. L. 96–513, title IV, § 414(a), Dec. 12, 1980, 94 Stat. 2906, eff. Sept. 15, 1981.

AMENDMENTS

2008—Subsec. (d)(1). Pub. L. 110–181 substituted ''Service Corps'' for ''Services Corps''.

2000—Subsec. (d)(1). Pub. L. 106–398 inserted ''an officer of the Coast Guard or Coast Guard Reserve designated as a physician assistant,'' after ''nurse,''.

1997—Subsec. (d)(1). Pub. L. 105–85 made technical correction to directory language of Pub. L. 104–201, § 614(b)(2)(B). See 1996 Amendment note below.

1996—Subsec. (d). Pub. L. 104–201, § 614(b)(1), substituted ''Secretary concerned'' for ''Secretary of Defense'' in introductory provisions.

Subsec. (d)(1). Pub. L. 104–201, § 614(b)(2)(B), as amended by Pub. L. 105–85, inserted before semicolon at end '', or an officer in the Regular or Reserve Corps of the Public Health Service''.

Pub. L. 104–201, § 614(b)(2)(A), struck out ''or'' after ''Nurse Corps of the Army or Navy,''.

Pub. L. 104–106 struck out ''or'' after ''Air Force,'' and inserted '', an officer of the Nurse Corps of the Army or Navy, or an officer of the Air Force designated as a nurse'' before semicolon at end.

1992—Subsec. (d)(1). Pub. L. 102–484 substituted ''Navy,'' for ''Navy or'' and inserted before semicolon at end '', or an officer in the Army Medical Specialist Corps''.

1991—Pub. L. 102–25 amended section catchline generally.

1990—Subsec. (d). Pub. L. 101–510 added subsec. (d).

1989—Pub. L. 101–189, § 704(b)(1), struck out ''in the Public Health Service Corps'' after ''psychologists'' in section catchline.

Subsecs. (a), (b). Pub. L. 101–189, § 704(c), inserted headings.

Subsec. (c). Pub. L. 101–189, § 704(a), added subsec. (c).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1073(c) of Pub. L. 105–85 provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, as enacted.

EFFECTIVE DATE

Section 2(c) of Pub. L. 100–140 provided that: ''The amendments made by this section [enacting this section and amending section 303a of this title] shall take effect on October 1, 1987 or on the date of the enactment of this Act [Oct. 26, 1987], whichever is later, and shall apply with respect to pay periods beginning on or after that effective date.''

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), 551(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.

IMPLEMENTATION OF SUBSECTION (d)

Section 618(b) of Pub. L. 101–510 provided that: ''The Secretary of Defense may not implement subsection (d) of section 302c of title 37, United States Code (as added by subsection (a)), unless the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report—

''(1) justifying the need of the military departments for the authority provided in such subsection; and

''(2) describing the manner in which that authority will be implemented.''

[Report submitted to Committees on Apr. 29, 1994.]

IMPLEMENTATION OF SPECIAL PAY FOR ARMY, NAVY, AND AIR FORCE PSYCHOLOGISTS

Section 704(d) of Pub. L. 101–189 provided that: ''The Secretary of Defense may not implement subsection (c) of section 302c of title 37, United States Code (as added by subsection (a)), unless the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report—

''(1) justifying the need of the military departments for the authority provided in such subsection; and

''(2) describing the manner in which that authority will be implemented.''

[Report submitted to Committees on Apr. 20, 1994.]

### § 302c–1. Special pay: accession and retention bonuses for psychologists

(a) ACCESSION BONUS.—

(1) ACCESSION BONUS AUTHORIZED.—A person described in paragraph (2) who executes a written agreement described in subsection (d) to accept a commission as an officer of the armed forces and remain on active duty for a period of not less than four consecutive years may, upon acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount, subject to subsection (c)(1), determined by the Secretary concerned.

(2) ELIGIBLE PERSONS.—A person described in paragraph (1) is any person who—

(A) is a graduate of an accredited school of psychology; and

(B) holds a valid State license to practice as a doctoral level psychologist.

(3) LIMITATION ON ELIGIBILITY.—A person may not be paid a bonus under this subsection if—

(A) the person, in exchange for an agreement to accept an appointment as an officer, received financial assistance from the Department of Defense to pursue a course of study in psychology; or

(B) the Secretary concerned determines that the person is not qualified to become and remain certified as a psychologist.

(b) MULTIYEAR RETENTION BONUS.—

(1) RETENTION BONUS AUTHORIZED.—An officer described in paragraph (2) who executes a written agreement described in subsection (d) to remain on active duty for up to four years after completion of any other active-duty service commitment may, upon acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

(2) ELIGIBLE OFFICERS.—An officer described in paragraph (1) is an officer of the armed forces who—

(A) is a psychologist of the armed forces;

(B) is in a pay grade below pay grade O–7;

(C) has at least eight years of creditable service (computed as described in section 302b(f) of this title) or has completed any active-duty service commitment incurred for psychology education and training;

(D) has completed initial residency training (or will complete such training before September 30 of the fiscal year in which the officer enters into the agreement under this subsection); and

(E) holds a valid State license to practice as a doctoral level psychologist.

(c) MAXIMUM AMOUNT OF BONUS.—

(1) ACCESSION BONUS.—The amount of an accession bonus under subsection (a) may not exceed $400,000.

(2) RETENTION BONUS.—The amount of a retention bonus under subsection (b) may not exceed $25,000 for each year of the agreement of the officer concerned.

(d) AGREEMENT.—The agreement referred to in subsections (a) and (b) shall provide that, consistent with the needs of the armed force concerned, the person or officer executing the agreement will be assigned to duty, for the period of obligated service covered by the agreement, as an officer of such armed force as a psychologist.

(e) REPAYMENT.—

(1) ACCESSION BONUS.—A person who, after signing an agreement under subsection (a), is not commissioned as an officer of the armed forces, does not become licensed as a psychologist, or does not complete the period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.

(2) RETENTION BONUS.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (b) shall be subject to the repayment provisions of section 303a(e) of this title.

(f) TERMINATION OF AUTHORITY.—No agreement under subsection (a) or (b) may be entered into after December 31, 2010.

(Added Pub. L. 110–417, [div. A], title VI, § 620(b)(1), Oct. 14, 2008, 122 Stat. 4490; amended Pub. L. 111–84, div. A, title VI, § 612(b)(1), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (f). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

### § 302d. Special pay: accession bonus for registered nurses

(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a registered nurse and who, during the period beginning on November 29, 1989, and ending on December 31, 2010, executes a written agreement described in subsection (c) to accept a commission as an officer and remain on active duty for a period of not less than three years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

(2) The amount of an accession bonus under paragraph (1) may not exceed $30,000.

(b) LIMITATION ON ELIGIBILITY FOR BONUS.—A person may not be paid a bonus under subsection (a) if—

(1) the person, in exchange for an agreement to accept an appointment as an officer, received financial assistance from the Department of Defense to pursue a baccalaureate degree; or

(2) the Secretary concerned determines that the person is not qualified to become and remain licensed as a registered nurse.

(c) AGREEMENT.—The agreement referred to in subsection (a) shall provide that, consistent with the needs of the uniformed service concerned, the person executing the agreement will be assigned to duty, for the period of obligated service covered by the agreement, as an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an

officer designated as a nurse in the commissioned corps of the Public Health Service.

(d) REPAYMENT.—An officer who does not become and remain licensed as a registered nurse during the period for which the payment is made, or who does not complete the period of active duty specified in the agreement entered into under subsection (a), shall be subject to the repayment provisions of section 303a(e) of this title.

(Added Pub. L. 101–189, div. A, title VII, § 705(a)(1), Nov. 29, 1989, 103 Stat. 1471; amended Pub. L. 101–510, div. A, title VI, § 613(a), title XIV, § 1484(d)(2), Nov. 5, 1990, 104 Stat. 1577, 1716; Pub. L. 102–484, div. A, title VI, § 612(g), Oct. 23, 1992, 106 Stat. 2421; Pub. L. 103–160, div. A, title VI, § 611(b), Nov. 30, 1993, 107 Stat. 1679; Pub. L. 103–337, div. A, title VI, § 612(b), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title VI, § 612(b), Feb. 10, 1996, 110 Stat. 359; Pub. L. 104–201, div. A, title VI, § 612(b), Sept. 23, 1996, 110 Stat. 2543; Pub. L. 105–85, div. A, title VI, § 612(b), Nov. 18, 1997, 111 Stat. 1786; Pub. L. 105–261, div. A, title VI, § 612(b), Oct. 17, 1998, 112 Stat. 2039; Pub. L. 106–65, div. A, title VI, § 612(b), Oct. 5, 1999, 113 Stat. 650; Pub. L. 106–398, § 1 [[div. A], title VI, § 622(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151; Pub. L. 107–107, div. A, title VI, § 612(b), Dec. 28, 2001, 115 Stat. 1135; Pub. L. 107–314, div. A, title VI, §§ 612(c), 615(e), Dec. 2, 2002, 116 Stat. 2567, 2568; Pub. L. 108–136, div. A, title VI, § 612(c), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, §§ 612(c), 616(a), Oct. 28, 2004, 118 Stat. 1947, 1948; Pub. L. 109–163, div. A, title VI, §§ 622(c), 687(b)(7), Jan. 6, 2006, 119 Stat. 3294, 3328; Pub. L. 109–364, div. A, title VI, § 612(c), Oct. 17, 2006, 120 Stat. 2248; Pub. L. 110–181, div. A, title VI, § 612(c), Jan. 28, 2008, 122 Stat. 148; Pub. L. 110–417, [div. A], title VI, § 612(c), Oct. 14, 2008, 122 Stat. 4484; Pub. L. 111–84, div. A, title VI, § 612(b)(2), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (a)(1). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (a)(1). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, § 622(c), substituted ''December 31, 2006'' for ''December 31, 2005''.

Subsec. (d). Pub. L. 109–163, § 687(b)(7), amended heading and text of subsec. (d) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when officer fails to become and remain licensed as a registered nurse or fails to complete total period of active duty.

2004—Subsec. (a)(1). Pub. L. 108–375, § 616(a), substituted ''three years'' for ''four years''.

Pub. L. 108–375, § 612(c), substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (a)(1). Pub. L. 108–136 substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (a)(1). Pub. L. 107–314, § 612(c), substituted ''December 31, 2003'' for ''December 31, 2002''.

Subsec. (a)(2). Pub. L. 107–314, § 615(e), substituted ''$30,000'' for ''$5,000''.

2001—Subsec. (a)(1). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

2000—Subsec. (a)(1). Pub. L. 106–398 substituted ''December 31, 2001'' for ''December 31, 2000''.

1999—Subsec. (a)(1). Pub. L. 106–65 substituted ''December 31, 2000'' for ''December 31, 1999''.

1998—Subsec. (a)(1). Pub. L. 105–261 substituted ''December 31, 1999'' for ''September 30, 1999''.

1997—Subsec. (a)(1). Pub. L. 105–85 substituted ''September 30, 1999'' for ''September 30, 1998''.

1996—Subsec. (a)(1). Pub. L. 104–201 substituted ''September 30, 1998'' for ''September 30, 1997''.

Pub. L. 104–106 substituted ''September 30, 1997'' for ''September 30, 1996''.

1994—Subsec. (a)(1). Pub. L. 103–337 substituted ''September 30, 1996'' for ''September 30, 1995''.

1993—Subsec. (a)(1). Pub. L. 103–160 substituted ''September 30, 1995'' for ''September 30, 1993''.

1992—Subsec. (a). Pub. L. 102–484 substituted ''September 30, 1993'' for ''September 30, 1992''.

1990—Subsec. (a)(1). Pub. L. 101–510, §§ 613(a), 1484(d)(2)(A), substituted ''November 29, 1989,'' for ''the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991'' and ''September 30, 1992'' for ''September 30, 1991''.

Subsec. (d)(4). Pub. L. 101–510, § 1484(d)(2)(B), substituted ''November 29, 1989'' for ''the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title VI, § 616(b), Oct. 28, 2004, 118 Stat. 1948, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to agreements entered into under section 302d of title 37, United States Code, on or after the date of the enactment of this Act [Oct. 28, 2004].''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

APPLICATION OF INCREASE

In case of amendment by section 615 of Pub. L. 107–314 to increase maximum amount of special pay or bonus that may be paid during any 12-month period, the amended limitation is applicable to 12-month periods beginning after Sept. 30, 2002, see section 615(i) of Pub. L. 107–314, set out as a note under section 301d of this title.

COVERAGE OF PERIOD OF LAPSED AUTHORITY

For provisions relating to coverage of period of lapsed authority from Oct. 1, 1993, to Nov. 30, 1993, for payment of accession bonus authorized under this section, see section 611(d) of Pub. L. 103–160, set out as a note under section 2130a of Title 10, Armed Forces.

For provisions relating to coverage of period of lapsed authority from Oct. 1, 1992, to Oct. 23, 1992, for payment of bonuses or other special pay under this section, see section 612(j)(2) of Pub. L. 102–484, set out as a note under section 301b of this title.

## § 302e. Special pay: nurse anesthetists

(a) SPECIAL PAY AUTHORIZED.—(1) An officer described in subsection (b)(1) who, during the pe-

riod beginning on November 29, 1989, and ending on December 31, 2010, executes a written agreement to remain on active duty for a period of one year or more may, upon the acceptance of the agreement by the Secretary concerned, be paid incentive special pay in an amount not to exceed $50,000 for any 12-month period.

(2) The Secretary concerned shall determine the amount of incentive special pay to be paid to an officer under paragraph (1). In determining that amount, the Secretary concerned shall consider the period of obligated service provided for in the agreement under that paragraph.

(b) COVERED OFFICERS.—(1) An officer referred to in subsection (a) is an officer of a uniformed service who—

(A) is an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service;

(B) is a qualified certified registered nurse anesthetist; and

(C) is on active duty under a call or order to active duty for a period of not less than one year.

(2) The Secretary of Defense may extend the special pay authorized under subsection (a) to officers of the armed forces who serve in a nursing specialty (other than as nurse anesthetists) that—

(A) is designated by the Secretary of the military department concerned as critical to meet requirements (whether such specialty is designated as critical to meet wartime or peacetime requirements); and

(B) requires postbaccalaureate education and training.

(c) TERMINATION OF AGREEMENT.—Under regulations prescribed by the Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, the Secretary concerned may terminate an agreement entered into under subsection (a). Upon termination of an agreement, the entitlement of the officer to special pay under this section and the agreed upon commitment to active duty of the officer shall end. If such entitlement is terminated, the officer concerned shall be subject to the repayment provisions of section 303a(e) of this title.

(d) PAYMENT.—Special pay payable to an officer under subsection (a) shall be paid annually at the beginning of the 12-month period for which the officer is to receive that payment.

(e) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.

(Added Pub. L. 101–189, div. A, title VII, §706(a)(1), Nov. 29, 1989, 103 Stat. 1472; amended Pub. L. 101–510, div. A, title VI, §§613(b), 614(a), (b), 618(c)(1), title XIV, §1484(d)(3), Nov. 5, 1990, 104 Stat. 1577, 1578, 1579, 1716; Pub. L. 102–25, title VII, §702(a)(2)(B), (b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title VI, §612(i), Oct. 23, 1992, 106 Stat. 2421; Pub. L. 103–160, div. A, title VI, §611(c), Nov. 30, 1993, 107 Stat. 1679; Pub. L. 103–337, div. A, title VI, §612(c), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title VI, §612(c), Feb. 10, 1996, 110 Stat. 359; Pub. L. 104–201, div. A, title VI, §612(c), Sept. 23, 1996, 110 Stat. 2543; Pub. L. 105–85, div. A, title VI, §612(c), Nov. 18, 1997, 111 Stat. 1786; Pub. L. 105–261, div. A, title VI, §612(c), Oct. 17, 1998, 112 Stat. 2039; Pub. L. 106–65, div. A, title VI, §612(c), Oct. 5, 1999, 113 Stat. 650; Pub. L. 106–398, §1 [[div. A], title VI, §§622(c), 626(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151, 1654A–153; Pub. L. 107–107, div. A, title VI, §612(c), Dec. 28, 2001, 115 Stat. 1135; Pub. L. 107–314, div. A, title VI, §§612(d), 615(f), Dec. 2, 2002, 116 Stat. 2567, 2569; Pub. L. 108–136, div. A, title VI, §612(d), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, §612(d), Oct. 28, 2004, 118 Stat. 1947; Pub. L. 109–163, div. A, title VI, §§622(d), 687(b)(8), Jan. 6, 2006, 119 Stat. 3294, 3328; Pub. L. 109–364, div. A, title VI, §612(d), Oct. 17, 2006, 120 Stat. 2248; Pub. L. 110–181, div. A, title VI, §612(d), Jan. 28, 2008, 122 Stat. 148; Pub. L. 110–417, [div. A], title VI, §612(d), Oct. 14, 2008, 122 Stat. 4484; Pub. L. 111–84, div. A, title VI, §612(b)(3), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (a)(1). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (a)(1). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, §622(d), substituted ''December 31, 2006'' for ''December 31, 2005''.

Subsec. (c). Pub. L. 109–163, §687(b)(8)(A), substituted ''If such entitlement is terminated, the officer concerned shall be subject to the repayment provisions of section 303a(e) of this title.'' for ''The officer may be required to refund that part of the special pay corresponding to the unserved period of active duty.''

Subsec. (e). Pub. L. 109–163, §687(b)(8)(B), amended heading and text of subsec. (e) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when officer fails to complete total period of active duty.

2004—Subsec. (a)(1). Pub. L. 108–375 substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (a)(1). Pub. L. 108–136 substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (a)(1). Pub. L. 107–314, §615(f), substituted ''$50,000'' for ''$15,000''.

Pub. L. 107–314, §612(d), substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (a)(1). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

2000—Subsec. (a)(1). Pub. L. 106–398, §1 [[div. A], title VI, §622(c)], substituted ''December 31, 2001'' for ''December 31, 2000''.

Subsec. (b)(2)(A). Pub. L. 106–398, §1 [[div. A], title VI, §626(b)(1)], substituted ''the Secretary of the military department concerned'' for ''the Secretary''.

1999—Subsec. (a)(1). Pub. L. 106–65 substituted ''December 31, 2000'' for ''December 31, 1999''.

1998—Subsec. (a)(1). Pub. L. 105–261 substituted ''December 31, 1999'' for ''September 30, 1999''.

1997—Subsec. (a)(1). Pub. L. 105–85 substituted ''September 30, 1999'' for ''September 30, 1998''.

1996—Subsec. (a)(1). Pub. L. 104–201 substituted ''September 30, 1998'' for ''September 30, 1997''.

Pub. L. 104–106 substituted ''September 30, 1997'' for ''September 30, 1996''.

1994—Subsec. (a)(1). Pub. L. 103–337 substituted ''September 30, 1996'' for ''September 30, 1995'' and ''$15,000'' for ''$6,000''.

1993—Subsec. (a)(1). Pub. L. 103–160 substituted ''September 30, 1995'' for ''September 30, 1993''.

1992—Subsec. (a)(1). Pub. L. 102–484 substituted ''September 30, 1993'' for ''September 30, 1992''.

1991—Pub. L. 102–25, § 702(a)(2)(B), amended section catchline generally.

Subsec. (d). Pub. L. 102–25, § 702(b)(1), (c), struck out ''of this section'' after ''subsection (a)''.

1990—Pub. L. 101–510, § 618(c)(1), directed that section catchline be amended to read ''§ 302c. Special pay: psychologists and nonphysician health care providers''.

Subsec. (a)(1). Pub. L. 101–510, § 1484(d)(3)(A), substituted ''November 29, 1989,'' for ''the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991''.

Pub. L. 101–510, § 614(b), substituted ''subsection (b)(1)'' for ''subsection (b)''.

Pub. L. 101–510, § 613(b), substituted ''September 30, 1992,'' for ''September 30, 1991,''.

Subsec. (b). Pub. L. 101–510, § 614(a), designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added par. (2).

Subsec. (e)(3). Pub. L. 101–510, § 1484(d)(3)(B), substituted ''November 29, 1989'' for ''the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

APPLICATION OF INCREASE

In case of amendment by section 615 of Pub. L. 107–314 to increase maximum amount of special pay or bonus that may be paid during any 12-month period, the amended limitation is applicable to 12-month periods beginning after Sept. 30, 2002, see section 615(i) of Pub. L. 107–314, set out as a note under section 301d of this title.

COVERAGE OF PERIOD OF LAPSED AUTHORITY

For provisions relating to coverage of period of lapsed authority from Oct. 1, 1993, to Nov. 30, 1993, for payment of special pay authorized under this section, see section 611(d) of Pub. L. 103–160, set out as a note under section 2130a of Title 10, Armed Forces.

For provisions relating to coverage of period of lapsed authority from Oct. 1, 1992, to Oct. 23, 1992, for payment of bonuses or other special pay under this section, see section 612(j)(2) of Pub. L. 102–484, set out as a note under section 301b of this title.

IMPLEMENTATION OF SUBSECTION (b)(2)

Pub. L. 101–510, div. A, title VI, § 614(c), Nov. 5, 1990, 104 Stat. 1578, provided that the Secretary of Defense could not implement subsec. (b)(2) of this section, unless the Secretary submitted to the Committees on Armed Services of the Senate and House of Representatives a report justifying the need of the departments for the authority provided in such subsection and describing the manner in which that authority would be implemented, prior to repeal by Pub. L. 106–398, § 1 [[div. A], title VI, § 626(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–153.

## § 302f. Special pay: reserve, recalled, or retained health care officers

(a) ELIGIBLE FOR SPECIAL PAY.—A health care officer described in subsection (b) shall be eligible for special pay under section 302, 302a, 302b, 302c, 302e, or 303 of this title (whichever applies) notwithstanding any requirement in those sections that—

(1) the call or order of the officer to active duty be for a period of not less than one year; or

(2) the officer execute a written agreement to remain on active duty for a period of not less than one year.

(b) HEALTH CARE OFFICERS DESCRIBED.—A health care officer referred to in subsection (a) is an officer of the armed forces who is otherwise eligible for special pay under section 302, 302a, 302b, 302c, 302e, or 303 of this title and who—

(1) is a reserve officer on active duty (other than for training) under a call or order to active duty for a period of more than 30 days but less than one year;

(2) is involuntarily retained on active duty under section 12305 of title 10, or is recalled to active duty under section 688 of title 10 for a period of more than 30 days; or

(3) voluntarily agrees to remain on active duty for a period of less than one year at a time when—

(A) officers are involuntarily retained on active duty under section 12305 of title 10; or

(B) the Secretary of Defense determines (pursuant to regulations prescribed by the Secretary) that special circumstances justify the payment of special pay under this section.

(c) MONTHLY PAYMENTS.—Payment of special pay pursuant to this section may be made on a monthly basis. The officer shall repay in the manner provided in section 303a(e) of this title any amount received under this section in excess of the amount that corresponds to the actual period of active duty served by the officer.

(d) SPECIAL RULE FOR RESERVE MEDICAL AND DENTAL OFFICERS.—While a reserve medical or dental officer receives a special pay under section 302 or 302b of this title by reason of subsection (a), the officer shall not be entitled to special pay under section 302(h) or 302b(h) of this title.

(Added Pub. L. 102–190, div. A, title VI, § 634(a), Dec. 5, 1991, 105 Stat. 1381; amended Pub. L. 104–106, div. A, title XV, § 1501(d)(4)(A), Feb. 10, 1996, 110 Stat. 500; Pub. L. 106–398, § 1 [[div. A], title VI, § 625(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–153; Pub. L. 109–163, div. A, title VI, § 687(b)(9), Jan. 6, 2006, 119 Stat. 3329.)

AMENDMENTS

2006—Subsec. (c). Pub. L. 109–163 substituted ''repay in the manner provided in section 303a(e) of this title'' for ''refund''.

2000—Subsec. (d). Pub. L. 106–398 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: ''While a reserve medical officer receives a special pay under section 302 of this title by reason of subsection (a), the officer shall not be entitled to special pay under subsection (h) of that section.''

1996—Subsec. (b)(2), (3)(A). Pub. L. 104–106 substituted ''section 12305 of title 10'' for ''section 673c of title 10''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of Title 10, Armed Forces.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

ACTIVE DUTY IN CONNECTION WITH OPERATION DESERT STORM

Pub. L. 102–25, title III, § 304, Apr. 25, 1991, 105 Stat. 81, as amended by Pub. L. 102–190, div. A, title VI, § 656, Dec. 5, 1991, 105 Stat. 1393, provided that:

''(a) ELIGIBLE FOR SPECIAL PAY.—A health care officer described in subsection (b) shall be eligible for special pay under section 302, 302a, 302b, 302e, or 303 of title 37, United States Code (whichever applies), notwithstanding any requirement in those sections that—

''(1) the call or order of the officer to active duty be for a period of not less than one year; or

''(2) the officer execute a written agreement to remain on active duty for a period of not less than one year.

''(b) HEALTH CARE OFFICERS DESCRIBED.—A health care officer referred to in subsection (a) is an officer of the Armed Forces who is otherwise eligible for special pay under section 302, 302a, 302b, 302e, or 303 of title 37, United States Code, and who—

''(1) is a reserve officer on active duty under a call or order to active duty for a period of less than one year in connection with Operation Desert Storm;

''(2) is involuntarily retained on active duty under section 673c [now 12305] of title 10, United States Code, or is recalled to active duty under section 688 of that title, in connection with Operation Desert Storm; or

''(3) voluntarily agrees to remain on active duty for a period of less than one year in connection with Operation Desert Storm.

''(c) MONTHLY PAYMENTS.—Payment of special pay pursuant to this section may be made on a monthly basis. If the service on active duty of an officer described in subsection (b) is terminated before the end of the period for which a payment is made to the officer under subsection (a), the officer is entitled to special pay under section 302, 302a, 302b, 302e, or 303 of title 37, United States Code (whichever applies), only for the portion of that period that the officer actually served on active duty. The officer shall refund any amount received in excess of the amount that corresponds to the period of active duty of the officer.

''(d) SPECIAL RULE FOR RESERVE MEDICAL OFFICER.—While a reserve medical officer receives a special pay under section 302 of title 37, United States Code, by operation of subsection (a), the officer shall not be entitled to special pay under subsection (h) of that section.

''(e) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on August 1, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.''

## § 302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties

(a) SPECIAL PAY AUTHORIZED.—An officer of a reserve component of the armed forces described in subsection (b) who executes a written agreement under which the officer agrees to serve in the Selected Reserve of an armed force for a period of not less than one year nor more than three years, beginning on the date the officer accepts the award of special pay under this section, may be paid special pay at an annual rate not to exceed $25,000.

(b) ELIGIBLE OFFICERS.—An officer referred to in subsection (a) is an officer in a health care profession who is qualified in a specialty designated by regulations as a critically short wartime specialty.

(c) TIME FOR PAYMENT.—Special pay under this section shall be paid annually at the beginning of each twelve-month period for which the officer has agreed to serve.

(d) REPAYMENT.—An officer who does not complete the period of service in the Selected Reserve specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.

(e) TERMINATION OF AGREEMENT AUTHORITY.—No agreement under this section may be entered into after December 31, 2010.

(Added Pub. L. 104–106, div. A, title VI, § 614(a)(1), Feb. 10, 1996, 110 Stat. 360; amended Pub. L. 104–201, div. A, title VI, § 611(a), Sept. 23, 1996, 110 Stat. 2543; Pub. L. 105–85, div. A, title VI, § 611(a), Nov. 18, 1997, 111 Stat. 1785; Pub. L. 105–261, div. A, title VI, § 611(a), Oct. 17, 1998, 112 Stat. 2038; Pub. L. 106–65, div. A, title VI, § 611(a), Oct. 5, 1999, 113 Stat. 649; Pub. L. 106–398, § 1 [[div. A], title VI, § 621(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151; Pub. L. 107–107, div. A, title VI, § 611(a), Dec. 28, 2001, 115 Stat. 1135; Pub. L. 107–314, div. A, title VI, § 612(e), Dec. 2, 2002, 116 Stat. 2567; Pub. L. 108–136, div. A, title VI, § 612(e), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, § 612(e), Oct. 28, 2004, 118 Stat. 1947; Pub. L. 109–163, div. A, title VI, §§ 622(e), 687(b)(10), Jan. 6, 2006, 119 Stat. 3294, 3329; Pub. L. 109–364, div. A, title VI, §§ 612(e), 616(a), Oct. 17, 2006, 120 Stat. 2248, 2249; Pub. L. 110–181, div. A, title VI, § 612(e), Jan. 28, 2008, 122 Stat. 148; Pub. L. 110–417, [div. A], title VI, § 612(e), Oct. 14, 2008, 122 Stat. 4484; Pub. L. 111–84, div. A, title VI, § 612(b)(4), Oct. 28, 2009, 123 Stat. 2353.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 100–456, div. A, title VI, § 613, Sept. 29, 1988, 102 Stat. 1981, as amended, which was set out as a note under section 302 of this title, prior to repeal by Pub. L. 104–106, § 614(c)(1).

AMENDMENTS

2009—Subsec. (e). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (e). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (a). Pub. L. 109–364, § 616(a), substituted ''$25,000'' for ''$10,000''.

Subsec. (d). Pub. L. 109–163, § 687(b)(10)(A), (B), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: ''An officer who voluntarily terminates service in the Selected Reserve of an armed force before the end of the period for which a payment was made to such officer under this section shall refund to the United States the full amount of the payment made for the period on which the payment was based.''

Subsec. (e). Pub. L. 109–364, § 612(e), substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, § 687(b)(10)(A), (C), redesignated subsec. (f) as (e) and struck out heading and text of former subsec. (e). Text read as follows: ''A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person receiving special pay under the agreement from the debt arising under the agreement.''

Subsec. (f). Pub. L. 109–163, § 687(b)(10)(C), redesignated subsec. (f) as (e).

Pub. L. 109–163, § 622(e), substituted ''December 31, 2006'' for ''December 31, 2005''.

2004—Subsec. (f). Pub. L. 108–375 substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (f). Pub. L. 108–136 substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (f). Pub. L. 107–314 substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (f). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

2000—Subsec. (f). Pub. L. 106–398 substituted ''December 31, 2001'' for ''December 31, 2000''.

1999—Subsec. (f). Pub. L. 106–65 substituted ''December 31, 2000'' for ''December 31, 1999''.

1998—Subsec. (f). Pub. L. 105–261 substituted ''December 31, 1999'' for ''September 30, 1999''.

1997—Subsec. (f). Pub. L. 105–85 substituted ''September 30, 1999'' for ''September 30, 1998''.

1996—Subsec. (f). Pub. L. 104–201 substituted ''September 30, 1998'' for ''September 30, 1997''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title VI, § 616(b), Oct. 17, 2006, 120 Stat. 2249, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2006, and shall apply to agreements entered into or revised under section 302g of title 37, United States Code, on or after that date.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

## § 302h. Special pay: accession bonus for dental officers

(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a graduate of an accredited dental school and who, during the period beginning on September 23, 1996, and ending on December 31, 2010, executes a written agreement described in subsection (c) to accept a commission as an officer of the armed forces and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

(2) The amount of an accession bonus under paragraph (1) may not exceed $200,000.

(b) LIMITATION ON ELIGIBILITY FOR BONUS.—A person may not be paid a bonus under subsection (a) if—

(1) the person, in exchange for an agreement to accept an appointment as an officer, received financial assistance from the Department of Defense to pursue a course of study in dentistry; or

(2) the Secretary concerned determines that the person is not qualified to become and remain certified and licensed as a dentist.

(c) AGREEMENT.—The agreement referred to in subsection (a) shall provide that, consistent with the needs of the armed service concerned, the person executing the agreement will be assigned to duty, for the period of obligated service covered by the agreement, as an officer of the Dental Corps of the Army or the Navy or an officer of the Air Force designated as a dental officer.

(d) REPAYMENT.—A person who, after signing an agreement under subsection (a), is not commissioned as an officer of the armed forces, does not become licensed as a dentist, or does not complete the period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.

(Added Pub. L. 104–201, div. A, title VI, § 615(c)(1), Sept. 23, 1996, 110 Stat. 2545; amended Pub. L. 107–107, div. A, title VI, § 618, Dec. 28, 2001, 115 Stat. 1137; Pub. L. 107–314, div. A, title VI, § 612(f), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 108–136, div. A, title VI, § 612(f), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, § 612(f), Oct. 28, 2004, 118 Stat. 1947; Pub. L. 109–163, div. A, title VI, §§ 622(f), 687(b)(11), Jan. 6, 2006, 119 Stat. 3294, 3329; Pub. L. 109–364, div. A, title VI, §§ 612(f), 617(a), Oct. 17, 2006, 120 Stat. 2248, 2249; Pub. L. 110–181, div. A, title VI, § 612(f), Jan. 28, 2008, 122 Stat. 148; Pub. L. 110–417, [div. A], title VI, § 612(f), Oct. 14, 2008, 122 Stat. 4484; Pub. L. 111–84, div. A, title VI, § 612(b)(5), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (a)(1). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (a)(1). Pub. L. 109–364, § 612(f), substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, § 622(f), substituted ''December 31, 2006'' for ''December 31, 2005''.

Subsec. (a)(2). Pub. L. 109–364, § 617(a), substituted ''$200,000'' for ''$30,000''.

Subsec. (d). Pub. L. 109–163, § 687(b)(11), amended heading and text of subsec. (d) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when officer fails to become and remain cer-

tified or licensed as dentist or fails to complete total period of active duty.

2004—Subsec. (a)(1). Pub. L. 108–375 substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (a)(1). Pub. L. 108–136 substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (a)(1). Pub. L. 107–314 substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (a)(1). Pub. L. 107–107 substituted ''September 23, 1996, and ending on December 31, 2002'' for ''the date of the enactment of this section, and ending on September 30, 2002''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title VI, § 617(e), Oct. 17, 2006, 120 Stat. 2251, provided that: ''The amendments made by this section [enacting sections 302k and 302*l* of this title and amending this section] shall take effect on October 1, 2006, and shall apply to agreements—

''(1) entered into or revised under section 302h of title 37, United States Code, on or after that date; or

''(2) entered into under section 302k or 302*l* of such title, as added by subsections (b) and (c), on or after that date.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

## § 302i. Special pay: pharmacy officers

(a) ARMY, NAVY, AND AIR FORCE PHARMACY OFFICERS.—Under regulations prescribed pursuant to section 303a of this title, the Secretary of the military department concerned may, subject to subsection (c), pay retention special pay under this section to an officer who—

(1) is a pharmacy officer in the Medical Service Corps of the Army or Navy or the Biomedical Sciences Corps of the Air Force; and

(2) is on active duty under a call or order to active duty for a period of not less than one year.

(b) PUBLIC HEALTH SERVICE CORPS.—Subject to subsection (c), the Secretary of Health and Human Services may pay retention special pay under this section to an officer who—

(1) is an officer in the Regular or Reserve Corps of the Public Health Service and is designated as a pharmacy officer; and

(2) is on active duty under a call or order to active duty for a period of not less than one year.

(c) LIMITATION ON ELIGIBILITY FOR SPECIAL PAY.—Special pay may not be paid under this section to an officer serving in a pay grade above pay grade O–6.

(d) LIMITATION ON AMOUNT OF SPECIAL PAY.—The amount of retention special pay paid to an officer under this section may not exceed $15,000 for any 12-month period.

(Added Pub. L. 106–398, § 1 [[div. A], title VI, § 628(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–154; amended Pub. L. 107–314, div. A, title VI, § 615(g), Dec. 2, 2002, 116 Stat. 2569.)

AMENDMENTS

2002—Subsecs. (a), (b). Pub. L. 107–314, § 615(g)(1), substituted ''retention special pay under this section'' for ''special pay at the rates specified in subsection (d)''.

Subsec. (c). Pub. L. 107–314, § 615(g)(2), inserted ''ON ELIGIBILITY FOR SPECIAL PAY'' after ''LIMITATION'' in heading.

Subsec. (d). Pub. L. 107–314, § 615(g)(3), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: ''The rate of special pay paid to an officer under subsection (a) or (b) is as follows:

''(1) $3,000 per year, if the officer is undergoing pharmacy internship training or has less than 3 years of creditable service.

''(2) $7,000 per year, if the officer has at least 3 but less than 6 years of creditable service and is not undergoing pharmacy internship training.

''(3) $7,000 per year, if the officer has at least 6 but less than 8 years of creditable service.

''(4) $12,000 per year, if the officer has at least 8 but less than 12 years of creditable service.

''(5) $10,000 per year, if the officer has at least 12 but less than 14 years of creditable service.

''(6) $9,000 per year, if the officer has at least 14 but less than 18 years of creditable service.

''(7) $8,000 per year, if the officer has 18 or more years of creditable service.''

APPLICATION OF INCREASE

In case of amendment by section 615 of Pub. L. 107–314 to increase maximum amount of special pay or bonus that may be paid during any 12-month period, the amended limitation is applicable to 12-month periods beginning after Sept. 30, 2002, see section 615(i) of Pub. L. 107–314, set out as a note under section 301d of this title.

## § 302j. Special pay: accession bonus for pharmacy officers

(a) ACCESSION BONUS AUTHORIZED.—A person who is a graduate of an accredited pharmacy school and who, during the period beginning on October 30, 2000, and ending on December 31, 2010, executes a written agreement described in subsection (d) to accept a commission as an officer of a uniformed service and remain on active duty for a period of not less than 4 years may, upon acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

(b) LIMITATION ON AMOUNT OF BONUS.—The amount of an accession bonus under subsection (a) may not exceed $30,000.

(c) LIMITATION ON ELIGIBILITY FOR BONUS.—A person may not be paid a bonus under subsection (a) if—

(1) the person, in exchange for an agreement to accept an appointment as a warrant or commissioned officer, received financial assistance from the Department of Defense or the Department of Health and Human Services to pursue a course of study in pharmacy; or

(2) the Secretary concerned determines that the person is not qualified to become and remain licensed as a pharmacist.

(d) AGREEMENT.—The agreement referred to in subsection (a) shall provide that, consistent

with the needs of the uniformed service concerned, the person executing the agreement shall be assigned to duty, for the period of obligated service covered by the agreement, as a pharmacy officer in the Medical Service Corps of the Army or Navy, a biomedical sciences officer in the Air Force designated as a pharmacy officer, or a pharmacy officer of the Public Health Service.

(e) REPAYMENT.—A person who, after signing an agreement under subsection (a), is not commissioned as an officer of the armed forces, does not become and remain certified or licensed as a pharmacist, or does not complete the period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.

(Added Pub. L. 106–398, §1 [[div. A], title VI, §628(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–154; amended Pub. L. 107–314, div. A, title X, §1062(c)(1), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 108–375, div. A, title VI, §612(g), Oct. 28, 2004, 118 Stat. 1947; Pub. L. 109–163, div. A, title VI, §§622(g), 687(b)(12), Jan. 6, 2006, 119 Stat. 3294, 3329; Pub. L. 109–364, div. A, title VI, §612(g), Oct. 17, 2006, 120 Stat. 2248; Pub. L. 110–181, div. A, title VI, §612(g), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title VI, §612(g), Oct. 14, 2008, 122 Stat. 4484; Pub. L. 111–84, div. A, title VI, §612(b)(6), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (a). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (a). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, §622(g), substituted ''December 31, 2006'' for ''December 31, 2005''.

Subsec. (e). Pub. L. 109–163, §687(b)(12), amended heading and text of subsec. (e) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when officer fails to become and remain licensed as pharmacist or fails to complete total period of active duty.

2004—Subsec. (a). Pub. L. 108–375 substituted ''October 30, 2000, and ending on December 31, 2005'' for ''the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 and ending on September 30, 2004''.

2002—Subsec. (a). Pub. L. 107–314 substituted ''subsection (d)'' for ''subsection (c)''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

## § 302k. Special pay: accession bonus for medical officers in critically short wartime specialties

(a) ACCESSION BONUS AUTHORIZED.—A person who is a graduate of an accredited school of medicine or osteopathy in a specialty designated by regulations as a critically short wartime specialty and who executes a written agreement described in subsection (d) to accept a commission as an officer of the armed forces and remain on active duty for a period of not less than four consecutive years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in the amount determined by the Secretary concerned.

(b) AMOUNT OF BONUS.—The amount of an accession bonus under subsection (a) may not exceed $400,000.

(c) LIMITATION ON ELIGIBILITY FOR BONUS.—A person may not be paid a bonus under subsection (a) if—

(1) the person, in exchange for an agreement to accept an appointment as an officer, received financial assistance from the Department of Defense to pursue a course of study in medicine or osteopathy; or

(2) the Secretary concerned determines that the person is not qualified to become and remain certified as a doctor or osteopath in a specialty designated by regulations as a critically short wartime specialty.

(d) AGREEMENT.—The agreement referred to in subsection (a) shall provide that, consistent with the needs of the armed force concerned, the person executing the agreement will be assigned to duty, for the period of obligated service covered by the agreement, as an officer of the Medical Corps of the Army or the Navy or as an officer of the Air Force designated as a medical officer in a specialty designated by regulations as a critically short wartime specialty.

(e) REPAYMENT.—A person who, after executing an agreement under subsection (a) is not commissioned as an officer of the armed forces, does not become licensed as a doctor or osteopath, as the case may be, or does not complete the period of active duty in a specialty specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.

(f) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2010.

(Added Pub. L. 109–364, div. A, title VI, §617(b), Oct. 17, 2006, 120 Stat. 2249; amended Pub. L. 110–181, div. A, title VI, §612(h), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title VI, §612(h), Oct. 14, 2008, 122 Stat. 4484; Pub. L. 111–84, div. A, title VI, §612(b)(7), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (f). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (f). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see sec-

tion 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE

Section effective Oct. 1, 2006, and applicable to agreements entered into on or after that date, see section 617(e) of Pub. L. 109–364, set out as an Effective Date of 2006 Amendment note under section 302h of this title.

### §302*l*. Special pay: accession bonus for dental specialist officers in critically short wartime specialties

(a) ACCESSION BONUS AUTHORIZED.—A person who is a graduate of an accredited dental school in a specialty designated by regulations as a critically short wartime specialty and who executes a written agreement described in subsection (d) to accept a commission as an officer of the armed forces and remain on active duty for a period of not less than four consecutive years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in the amount determined by the Secretary concerned.

(b) AMOUNT OF BONUS.—The amount of an accession bonus under subsection (a) may not exceed $400,000.

(c) LIMITATION ON ELIGIBILITY FOR BONUS.—A person may not be paid a bonus under subsection (a) if—

(1) the person, in exchange for an agreement to accept an appointment as an officer, received financial assistance from the Department of Defense to pursue a course of study in dentistry; or

(2) the Secretary concerned determines that the person is not qualified to become and remain certified as a dentist in a specialty designated by regulations as a critically short wartime specialty.

(d) AGREEMENT.—The agreement referred to in subsection (a) shall provide that, consistent with the needs of the armed force concerned, the person executing the agreement will be assigned to duty, for the period of obligated service covered by the agreement, as an officer of the Dental Corps of the Army or the Navy or as an officer of the Air Force designated as a dental officer in a specialty designated by regulations as a critically short wartime specialty.

(e) REPAYMENT.—A person who, after executing an agreement under subsection (a) is not commissioned as an officer of the armed forces, does not become licensed as a dentist, or does not complete the period of active duty in a specialty specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.

(f) COORDINATION WITH OTHER ACCESSION BONUS AUTHORITY.—A person eligible to execute an agreement under both subsection (a) and section 302h of this title shall elect which authority to execute the agreement under. A person may not execute an agreement under both subsection (a) and such section 302h.

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2010.

(Added Pub. L. 109–364, div. A, title VI, §617(c), Oct. 17, 2006, 120 Stat. 2250; amended Pub. L. 110–181, div. A, title VI, §612(i), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title VI, §612(i), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111–84, div. A, title VI, §612(b)(8), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (g). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (g). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE

Section effective Oct. 1, 2006, and applicable to agreements entered into on or after that date, see section 617(e) of Pub. L. 109–364, set out as an Effective Date of 2006 Amendment note under section 302h of this title.

### §303. Special pay: veterinarians

(a) MONTHLY SPECIAL PAY.—Each of the following officers is entitled to special pay at the rate of $100 a month for each month of active duty:

(1) A commissioned officer—

(A) of the Regular Army who is in the Veterinary Corps;

(B) of the Regular Air Force who is an officer in the Biomedical Sciences Corps and holds a degree in veterinary medicine; or

(C) who is a veterinary officer of the Regular Corps of the Public Health Service.

(2) A commissioned officer—

(A) of a Reserve component of the Army who is in the Veterinary Corps of the Army;

(B) of a reserve component of the Air Force, of the Army or the Air Force without specification of component, or of the National Guard, who—

(i) is designated as a veterinary officer; or

(ii) is an officer in the Biomedical Sciences Corps of the Air Force and holds a degree in veterinary medicine; or

(C) who is a veterinary officer of the Reserve Corps of the Public Health Service,

who is on active duty as a result of a call or order to active duty for a period of at least one year.

(3) A general officer of the Army or the Air Force appointed, from any of the categories named in clause (1) or (2), in the Army, the Air Force, or the National Guard, as the case may be.

(b) ADDITIONAL SPECIAL PAY FOR BOARD CERTIFICATION.—A commissioned officer entitled to special pay under subsection (a) who has been certified as a Diplomate in a specialty recog-

nized by the American Veterinarian Medical Association is entitled to special pay (in addition to the special pay under subsection (a)) at the same rate as is provided under section 302c(b) of this title for an officer referred to in that section who has the same number of years of creditable service as the commissioned officer.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 465; Pub. L. 88–2, § 5, Mar. 28, 1963, 77 Stat. 4; Pub. L. 90–40, § 5, June 30, 1967, 81 Stat. 105; Pub. L. 92–129, title I, § 104, Sept. 28, 1971, 85 Stat. 355; Pub. L. 93–64, title II, § 203, July 9, 1973, 87 Stat. 149; Pub. L. 95–114, § 3, Sept. 30, 1977, 91 Stat. 1046; Pub. L. 95–485, title VIII, § 801(b), Oct. 20, 1978, 92 Stat. 1619; Pub. L. 96–284, § 4(c), June 28, 1980, 94 Stat. 591; Pub. L. 100–26, § 8(d)(3), Apr. 21, 1987, 101 Stat. 285; Pub. L. 100–180, div. A, title XII, § 1232, Dec. 4, 1987, 101 Stat. 1161; Pub. L. 102–25, title VII, § 702(b)(2), Apr. 6, 1991, 105 Stat. 117; Pub. L. 106–65, div. A, title VI, § 616(a), Oct. 5, 1999, 113 Stat. 652; Pub. L. 106–398, § 1 [[div. A], title VI, § 629], Oct. 30, 2000, 114 Stat. 1654, 1654A–155.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 303(a) ..... | 37:234(b) (less 1st proviso, as applicable to veterinarians). 37:234(c). | Oct. 12, 1949, ch. 681, § 203(b) (as applicable to veterinarians), (c), 63 Stat. 809; June 25, 1952, ch. 459, § 1, 66 Stat. 156; June 29, 1953, ch. 158, § 8 (as applicable to veterinarians), 67 Stat. 89; June 30, 1955, ch. 250, § 203, 69 Stat. 225; Apr. 30, 1956, ch. 223, § 5, 70 Stat. 122; Mar. 23, 1959, Pub. L. 86–4, § 5, 73 Stat. 13. |
| 303(b) ..... | 37:234(b) (1st proviso, as applicable to veterinarians). | |

In subsection (a), clause (1) is substituted for section 234(c)(1), (2), and (3) of existing title 37. The words ''of the Regular Army'' and ''of the Regular Air Force'' are inserted in clauses (1)(A) and (B), respectively, since in contradistinction to section 234(c)(4) of existing title 37, their source was intended to apply only to regular officers. Clauses (2)(A) and (B) are substituted for the enumeration of categories in section 234(c)(4) of existing title 37 to reflect current usage and designations of those categories. Clause (3) is substituted for section 234(c)(5) and (6) of existing title 37. Section 234(b) (2d proviso) of existing title 37 is omitted as obsolete. Section 234(b) (last proviso) of existing title 37 is omitted as inapplicable to veterinarians.

In subsection (b), the words ''disability retirement pay'' are omitted as covered by the words ''retired pay''.

AMENDMENTS

2000—Subsec. (a)(1)(B). Pub. L. 106–398, § 1 [[div. A], title VI, § 629(1)], substituted ''who is an officer in the Biomedical Sciences Corps and holds a degree in veterinary medicine'' for ''who is designated as a veterinary officer''.

Subsec. (a)(2)(B). Pub. L. 106–398, § 1 [[div. A], title VI, § 629(2)], added subpar. (B) and struck out former subpar. (B) which read as follows: ''of a Reserve component of the Air Force, of the Army or the Air Force without specification of component, or of the National Guard, who is designated as a veterinary officer of the Army or the Air Force, as the case may be; or''.

1999—Pub. L. 106–65 designated existing provisions as subsec. (a), inserted subsec. heading, and added subsec. (b).

1991—Par. (3). Pub. L. 102–25 struck out ''of this subsection'' after ''clause (1) or (2)''.

1987—Pub. L. 100–180 substituted semicolon for comma at end of par. (2)(A) and ''; or'' for '', or'' at end of par. (2)(B).

Pub. L. 100–26 substituted ''A'' for ''a'' at beginning of pars. (1) to (3), semicolon for comma at end of par. (1)(A), ''; or'' for '', or'' at end of par. (1)(B), period for semicolon at end of par. (1)(C), and period for ''; and'' at end of par. (2); and directed substitution of semicolon for comma at end of par. (1)(B) which could not be executed because no comma appeared at end of par. (1)(B).

1980—Pub. L. 96–284 substituted ''Each'' for ''(a) In addition to any other basic pay, special pay, incentive pay or allowance to which he is entitled, each'', struck out ''beginning on or after October 1, 1977'' after ''active duty'', struck out subsec. (b) which prohibited inclusion of active duty monthly special pay in computation of amount of increase in pay authorized in any other provision of this title or in computation of retired pay or severance pay, and struck out subsec. (c) which provided that no special pay be paid for any month after September 1980.

1978—Subsec. (c). Pub. L. 95–485 substituted ''September 1980'' for ''September 1978''.

1977—Subsec. (a). Pub. L. 95–114 amended subsec. (a) to provide for the reinstatement of special pay provisions for veterinarians for each month on active duty beginning on or after Oct. 1, 1977.

Subsecs. (b), (c). Pub. L. 95–114 reenacted subsec. (b) without change and added subsec. (c).

1973—Subsec. (a). Pub. L. 93–64 substituted ''July 1, 1975'' for ''July 1, 1973'' wherever appearing.

1971—Subsec. (a). Pub. L. 92–129 substituted ''July 1, 1973'' for ''July 1, 1971'' wherever appearing.

1967—Subsec. (a). Pub. L. 90–40 substituted ''July 1, 1971'' for ''July 1, 1967'' wherever appearing.

1963—Subsec. (a). Pub. L. 88–2 substituted ''July 1, 1967'' for ''July 1, 1963'' wherever appearing.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, § 616(b), Oct. 5, 1999, 113 Stat. 652, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to months beginning on and after that date.''

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–114 effective Oct. 1, 1977, see section 4 of Pub. L. 95–114, set out as a note under section 302a of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–64 effective July 1, 1973, see section 206 of Pub. L. 93–64, set out as a note under section 401 of this title.

## § 303a. Special pay: general provisions

(a) The Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, shall prescribe regulations for the administration of sections 301d, 302 through 302j, and 303 of this title.

(b)(1) Except as provided in paragraph (2) or as otherwise provided under a provision of this chapter, a commissioned officer in the Regular or Reserve Corps of the Public Health Service is entitled to special pay under a provision of this chapter in the same amounts, and under the same terms and conditions, as a commissioned officer of the armed forces is entitled to special pay under that provision.

(2) A commissioned medical officer in the Regular or Reserve Corps of the Public Health Service (other than an officer serving in the Indian

Health Service) may not receive additional special pay under section 302(a)(4) of this title for any period during which the officer is providing obligated service under the following provisions of law:

(A) Section 338B of the Public Health Service Act (42 U.S.C. 254*l*–1).

(B) Section 225(e) of the Public Health Service Act, as that section was in effect before October 1, 1977.

(C) Section 752 of the Public Health Service Act, as that section was in effect between October 1, 1977, and August 13, 1981.

(c) Special pay authorized under sections 301d, 302 through 302j, and 303 of this title is in addition to any other pay or allowance to which an officer is entitled. The amount of special pay to which an officer is entitled under any of such sections may not be included in computing the amount of any increase in pay authorized by any other provision of this title or in computing retired pay, separation pay, severance pay, or readjustment pay.

(d) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 301d, 302 through 302j, and 303 of this title.

(e) REPAYMENT OF UNEARNED PORTION OF BONUSES AND OTHER BENEFITS WHEN CONDITIONS OF PAYMENT NOT MET; TERMINATION OF ENTITLEMENT TO UNPAID AMOUNTS.—(1)(A) Except as provided in paragraphs (2) and (3), a member of the uniformed services who receives a bonus or similar benefit and whose receipt of the bonus or similar benefit is subject to the condition that the member continue to satisfy certain eligibility requirements shall repay to the United States an amount equal to the unearned portion of the bonus or similar benefit if the member fails to satisfy the eligibility requirements and may not receive any unpaid amounts of the bonus or similar benefit after the member fails to satisfy the requirements, unless the Secretary concerned determines that the imposition of the repayment requirement and termination of the payment of unpaid amounts of the bonus or similar benefit with regard to the member would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States.

(B) The Secretary concerned may establish, by regulations, procedures for determining the amount of the repayment required under this subsection and the circumstances under which an exception to the required repayment may be granted. The Secretary concerned may specify in the regulations the conditions under which an installment payment of a bonus or similar benefit to be paid to a member of the uniformed services will not be made if the member no longer satisfies the eligibility requirements for the bonus or similar benefit. For the military departments, this subsection shall be administered under regulations prescribed by the Secretary of Defense.

(2)(A) If a member of the uniformed services receives a sole survivorship discharge, the Secretary concerned—

(i) shall not require repayment by the member of the unearned portion of any bonus, incentive pay, or similar benefit previously paid to the member; and

(ii) may grant an exception to the requirement to terminate the payment of any unpaid amounts of a bonus, incentive pay, or similar benefit if the Secretary concerned determines that termination of the payment of the unpaid amounts would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States.

(B) In this paragraph, the term ''sole survivorship discharge'' means the separation of a member from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early separation of a member who is the only surviving child in a family in which—

(i) the father or mother or one or more siblings—

(I) served in the Armed Forces; and

(II) was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization); and

(ii) the death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence.

(3)(A) If a member of the uniformed services dies or is retired or separated with a combat-related disability, the Secretary concerned—

(i) shall not require repayment by the member or the member's estate of the unearned portion of any bonus or similar benefit previously paid to the member; and

(ii) shall require the payment to the member or the member's estate of the remainder of any bonus or similar benefit that was not yet paid to the member, but to which the member was entitled immediately before the death, retirement, or separation of the member, and would be paid if not for the death, retirement, or separation of the member.

(B) Subparagraph (A) does not apply if the death or disability of the member is the result[1] the member's misconduct.

(C) The amount to be paid under subparagraph (A)(ii) shall be equal to the full amount specified by the agreement or contract applicable to the bonus or similar benefit as if the member continued to be entitled to the bonus or similar benefit following the death, retirement, or separation.

(D) Amounts to be paid to a member or the member's estate under subparagraph (A)(ii) shall be paid in a lump sum not later than 90 days after the date of the death, retirement, or separation of the member, whichever applies.

[1] So in original. Probably should be followed by ''of''.

(E) In this paragraph, the term ''combat-related disability'' has the meaning given that term in section 1413a(e) of title 10.

(4) An obligation to repay the United States under this subsection is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after—

(A) the date of the termination of the agreement or contract on which the debt is based; or

(B) in the absence of such an agreement or contract, the date of the termination of the service on which the debt is based.

(5) In this subsection:

(A) The term ''bonus or similar benefit'' means a bonus, incentive pay, special pay, or similar payment, or an educational benefit or stipend, paid to a member of the uniformed services under a provision of law that refers to the repayment requirements of this subsection.

(B) The term ''service'', as used in paragraph (4)(B), refers to an obligation willingly undertaken by a member of the uniformed services, in exchange for a bonus or similar benefit offered by the Secretary of Defense or the Secretary concerned—

(i) to remain on active duty or in an active status in a reserve component;

(ii) to perform duty in a specified skill, with or without a specified qualification or credential;

(iii) to perform duty at a specified location; or

(iv) to perform duty for a specified period of time.

(Added Pub. L. 96–284, § 5(a), June 28, 1980, 94 Stat. 592; amended Pub. L. 96–513, title V, § 506(6), Dec. 12, 1980, 94 Stat. 2919; Pub. L. 100–140, § 2(b)(1), Oct. 26, 1987, 101 Stat. 831; Pub. L. 101–189, div. A, title VII, §§ 705(b), 706(b), Nov. 29, 1989, 103 Stat. 1472, 1473; Pub. L. 101–510, div. A, title VI, § 611(d), title XIII, § 1322(c)(2), title XIV, § 1484(c)(1), Nov. 5, 1990, 104 Stat. 1577, 1672, 1716; Pub. L. 102–484, div. A, title X, § 1054(a)(3), Oct. 23, 1992, 106 Stat. 2502; Pub. L. 104–106, div. A, title VI, § 614(b), Feb. 10, 1996, 110 Stat. 361; Pub. L. 104–201, div. A, title VI, § 615(c)(3), Sept. 23, 1996, 110 Stat. 2546; Pub. L. 106–398, § 1 [[div. A], title VI, §§ 628(b), 634(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–155, 1654A–159; Pub. L. 109–163, div. A, title VI, § 687(a)(1), (e)(1), Jan. 6, 2006, 119 Stat. 3326, 3336; Pub. L. 110–317, § 2(a), Aug. 29, 2008, 122 Stat. 3526; Pub. L. 110–417, [div. A], title VI, § 651(a), (b), Oct. 14, 2008, 122 Stat. 4495; Pub. L. 111–84, div. A, title VI, § 617(a), Oct. 28, 2009, 123 Stat. 2354.)

REFERENCES IN TEXT

Section 225(e) of the Public Health Service Act, as that section was in effect before October 1, 1977, referred to in subsec. (b)(2)(B), is section 225(e) of act July 1, 1944, ch. 373, which was classified to section 234(e) of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 94–484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2281, effective Oct. 1, 1977.

Section 752 of the Public Health Service Act, as that section was in effect between October 1, 1977, and August 13, 1981, referred to in subsec. (b)(2)(C), is section 752 of act July 1, 1944, ch. 373, title VII, as added Pub. L. 94–484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2284; amended Pub. L. 95–626, title I, § 113(b), Nov. 10, 1978, 92 Stat. 3563; Pub. L. 96–76, title II, § 202(a), (b), Sept. 29, 1979, 93 Stat. 582, which was classified to section 294u of Title 42, The Public Health and Welfare. Section 752 was renumbered section 338B of act July 1, 1944, and amended, by Pub. L. 97–35, title XXVII, § 2709(a), (c), Aug. 13, 1981, 95 Stat. 908, 909. It was subsequently renumbered section 338C of act July 1, 1944, and further amended, and is now classified to section 254m of Title 42.

AMENDMENTS

2009—Subsec. (e)(1)(A). Pub. L. 111–84, § 617(a)(1), substituted ''paragraphs (2) and (3)'' for ''paragraph (2)''.

Subsec. (e)(1)(B), (2). Pub. L. 111–84, § 617(a)(5), redesignated subpar. (B), relating to sole survivorship discharge, as par. (2). Former par. (2) redesignated (3).

Subsec. (e)(3) to (5). Pub. L. 111–84, § 617(a)(2)–(4), redesignated pars. (2) to (4) as (3) to (5), respectively, and, in par. (5)(B), substituted ''paragraph (4)(B)'' for ''paragraph (3)(B)'' in introductory provisions.

2008—Subsec. (e). Pub. L. 110–417, § 651(a)(1), inserted ''; Termination of Entitlement to Unpaid Amounts'' after ''Met'' in heading.

Subsec. (e)(1). Pub. L. 110–417, § 651(a)(2)(A), which directed substitution of ''(A) Except as provided in paragraph (2), a member'' for ''A member'', could not be executed because of prior amendment by 110–317. See below.

Pub. L. 110–317, § 2(a)(1), substituted ''(A) Except as provided in paragraph (2), a member'' for ''A member''.

Subsec. (e)(1)(A). Pub. L. 110–417, § 651(a)(2)(B), substituted ''the eligibility requirements and may not receive any unpaid amounts of the bonus or similar benefit after the member fails to satisfy the requirements, unless the Secretary concerned determines that the imposition of the repayment requirement and termination of the payment of unpaid amounts of the bonus or similar benefit with regard to the member would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States'' for ''the requirements, except in certain circumstances authorized by the Secretary concerned''.

Subsec. (e)(1)(B). Pub. L. 110–417, § 651(a)(3), redesignated par. (2) as subpar. (B) of par. (1) relating to sole survivorship discharge.

Pub. L. 110–317, § 2(a)(2), redesignated par. (2) as subpar. (B) of par. (1) relating to the Secretary establishing procedures for determining the amount of the repayment required under subsec. (e).

Subsec. (e)(2). Pub. L. 110–417, § 651(b), added par. (2). Former par. (2) redesignated subpar. (B) of par. (1) relating to sole survivorship discharge.

Pub. L. 110–317, § 2(a)(3), added par. (2). Former par. (2) redesignated as subpar. (B) of par. (1) relating to the Secretary establishing procedures for determining the amount of the repayment required under subsec. (e).

2006—Pub. L. 109–163, § 687(e)(1), substituted ''Special pay: general provisions'' for ''Special pay: health professionals; general provisions'' in section catchline.

Subsec. (e). Pub. L. 109–163, § 687(a)(1), added subsec. (e).

2000—Pub. L. 106–398, § 1 [[div. A], title VI, § 628(b)], substituted ''302j'' for ''302h'' wherever appearing.

Subsecs. (b) to (d). Pub. L. 106–398, § 1 [[div. A], title VI, § 634(a)], added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1996—Pub. L. 104–201 substituted ''302h'' for ''302g'' wherever appearing.

Pub. L. 104–106 substituted ''302 through 302g,'' for ''302, 302a, 302b, 302c, 302d, 302e,'' wherever appearing.

1992—Subsec. (b). Pub. L. 102–484 struck out ''301d,'' after ''such sections''.

1990—Subsec. (a). Pub. L. 101–510, §§ 611(d), 1484(c)(1), inserted ''301d,'' after ''sections'' and substituted ''and 303'' for ''303, and 311''.

Subsec. (b). Pub. L. 101–510, §611(d), inserted ''301d,'' after ''sections'' wherever appearing.

Subsec. (c). Pub. L. 101–510, §§611(d), 1322(c)(2), 1484(c)(1), inserted ''301d,'' after ''sections'', substituted ''and 303'' for ''303, and 311'', and struck out at end ''A report shall be submitted to the Congress not later than September 30, 1982, of the results of the first such review, and a report shall be submitted to the Congress not later than September 30 of each second year thereafter on the results of the review for the preceding two-year period.''

1989—Pub. L. 101–189 inserted ''302d, 302e,'' after ''302c,'' wherever appearing.

1987—Pub. L. 100–140 inserted ''302c,'' after ''302b,'' wherever appearing.

1980—Subsec. (a). Pub. L. 96–513, §506(6)(A), struck out reference to sections 302c and 313 of this title.

Subsec. (b). Pub. L. 96–513, §506(6)(B), (C), struck out reference to section 302c of this title and inserted reference to separation pay.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–317 applicable with respect to any sole survivorship discharge granted after Sept. 11, 2001, see section 10 of Pub. L. 110–317, set out as a note under section 2108 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VI, §687(a)(2), Jan. 6, 2006, 119 Stat. 3327, as amended by Pub. L. 109–364, div. A, title X, §1071(e)(6), Oct. 17, 2006, 120 Stat. 2401, provided that: ''In the case of a provision of law amended by subsection (b), (c), or (d) of this section [amending sections 301b, 301d, 301e, 302, 302a, 302b, 302d to 302h, 302j, 307a, 308, 308b, 308c, 308g to 308i, 309, 312, 312b, 314 to 319, and 321 to 327 of this title, sections 510, 2005, 2007, 2105, 2123, 2130a, 2173, 2200a, 4348, 6959, 9348, 16135, 16203, 16303, and 16401 of Title 10, Armed Forces, and section 182 of Title 14, Coast Guard], paragraph (3) of subsection (e) of section 303a of title 37, United States Code, as added by this subsection, shall apply to any case commenced under title 11, United States Code, after March 30, 2006.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–140 effective Oct. 26, 1987, and applicable to pay periods beginning on or after such date, see section 2(c) of Pub. L. 100–140, set out as an Effective Date note under section 302c of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

### §303b. Waiver of board certification requirements

(a) CERTIFICATION INTERRUPTED BY CONTINGENCY OPERATION.—A member of the armed forces described in subsection (b) who completes the board certification or recertification requirements specified in section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of this title before the end of the period established for the member in subsection (c) shall be paid special pay under the applicable section for active duty performed during the period beginning on the date on which the member was assigned to duty in support of a contingency operation and ending on the date of that certification or recertification if the Secretary of Defense determines that the member was unable to schedule or complete that certification or recertification earlier because of that duty.

(b) ELIGIBLE MEMBERS DESCRIBED.—A member of the armed forces referred to in subsection (a) is a member who—

(1) is a medical or dental officer or a nonphysician health care provider;

(2) has completed any required residency training; and

(3) was, except for the board certification requirement, otherwise eligible for special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of this title during a duty assignment in support of a contingency operation.

(c) PERIOD FOR CERTIFICATION.—The period referred to in subsection (a) for completion of board certification or recertification requirements with respect to a member of the armed forces is the 180-day period (extended for such additional time as the Secretary of Defense determines to be appropriate) beginning on the date on which the member is released from the duty to which the member was assigned in support of a contingency operation.

(Added Pub. L. 102–190, div. A, title VI, §635(a), Dec. 5, 1991, 105 Stat. 1382.)

OPERATION DESERT STORM DUTY ASSIGNMENTS

Pub. L. 102–25, title III, §305, Apr. 6, 1991, 105 Stat. 82, provided that:

''(a) CERTIFICATION INTERRUPTED BY OPERATION DESERT STORM.—A member of the Armed Forces described in subsection (b) who completes the board certification or recertification requirements specified in section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of title 37, United States Code, before the end of the period established for the member in subsection (c) shall be paid special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of such title (whichever applies) for active duty performed after November 5, 1990, and before the date of that certification and recertification if the Secretary of Defense determines that the member was unable to schedule or complete that certification or recertification earlier because of a duty assignment in connection with Operation Desert Storm.

''(b) ELIGIBLE MEMBERS DESCRIBED.—A member of the Armed Forces referred to in subsection (a) is a member who—

''(1) is a medical or dental officer or a nonphysician health care provider;

''(2) has completed any required residency training; and

''(3) was, except for the board certification requirement, otherwise eligible for special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of such title during the duty assignment in connection with Operation Desert Storm.

''(c) PERIOD FOR CERTIFICATION.—The period referred to in subsection (a) for completion of board certification or recertification requirements with respect to a member of the Armed Forces is the 180-day period (extended for such additional time as the Secretary of Defense determines to be appropriate) beginning on the date that the member is released from the duty to which the member was assigned in connection with Operation Desert Storm.''

### §304. Special pay: diving duty

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who is entitled to basic pay is entitled to special pay, in the amount set forth in subsection (b), for periods during which the member—

(1) is assigned by orders to the duty of diving;

(2) is required to maintain proficiency as a diver by frequent and regular dives; and

(3) either—

(A) actually performs diving duty while serving in an assignment for which diving is a primary duty; or

(B) meets the requirements to maintain proficiency as described in paragraph (2) while serving in an assignment that includes diving duty other than as a primary duty.

(b) Special pay payable under subsection (a) shall be paid at a rate of not more than $240 a month, in the case of an officer, and at a rate of not more than $340 a month, in the case of an enlisted member.

(c) If, in addition to diving duty, a member is assigned by orders to one or more hazardous duties described in section 301 of this title, the member may be paid, for the same period of service, special pay under this section and incentive pay under such section 301 for each hazardous duty for which the member is qualified.

(d)(1) Under regulations prescribed by the Secretary concerned and to the extent provided for by appropriations, when a member of the National Guard or a reserve component of a uniformed service who is entitled to compensation under section 206 of this title performs diving duty, pursuant to orders, such member is entitled to an increase in compensation equal to 1/30 of the monthly special pay prescribed by the Secretary concerned for the performance of diving duty by a member of comparable diving classification who is entitled to basic pay under section 204 of this title. Such member is entitled to the increase—

(A) for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least two hours, including that performed on a Sunday or holiday; or

(B) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title.

(2) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

(e) In time of war, the President may suspend the payment of diving duty pay.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 465; Pub. L. 97–60, title I, § 115, Oct. 14, 1981, 95 Stat. 995; Pub. L. 100–180, div. A, title VI, § 624(a), Dec. 4, 1987, 101 Stat. 1103; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 105–261, div. A, title VI, § 616(a), Oct. 17, 1998, 112 Stat. 2041; Pub. L. 106–65, div. A, title VI, § 617(a), (b), Oct. 5, 1999, 113 Stat. 652.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 304(a) ..... | 37:236(a), (b). | Oct. 12, 1949, ch. 681, § 205, 63 Stat. 810; Mar. 31, 1955, ch. 20, § 2(8)–(10), 69 Stat. 21; Aug. 17, 1961, Pub. L. 87–145, § 1, 75 Stat. 382. |
| 304(b) ..... | 37:236(c). | |

In subsection (a), the last sentence is substituted for section 236(b) of existing title 37. The word ''competent'' is omitted as surplusage.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–65, § 617(a), substituted ''$240'' for ''$200'' and ''$340'' for ''$300''.

Subsec. (c). Pub. L. 106–65, § 617(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''A member may be paid special pay under this section and incentive pay under section 301 of this title for the same period of service only if the member is assigned by orders to a hazardous duty described in section 301(a) of this title in addition to diving duty. However, if a member is paid special pay under this section, the member is not entitled to more than one payment of incentive pay under section 301 of this title.''

1998—Subsec. (a)(3). Pub. L. 105–261 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''actually performs diving duty.''

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)''.

1987—Subsecs. (d), (e). Pub. L. 100–180 added subsec. (d) and redesignated former subsec. (d) as (e).

1981—Pub. L. 97–60 revised provisions of subsec. (a) into new subsecs. (a), (b), and (c), redesignated subsec. (b) as (d), and, in provisions of subsec. (a) as revised, added to enumeration of conditions attached to entitlement to special pay requirement that the member maintain proficiency as a diver by frequent and regular dives, substituted a rate of $200 a month for officers and $300 a month for enlisted men for former rate of $110 a month for all members, and inserted provisions authorizing payment of both special pay under this section and incentive pay under section 301 of this title in specified circumstances.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, § 617(c), Oct. 5, 1999, 113 Stat. 652, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to special pay paid under such section for months beginning on or after that date.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title VI, § 616(b), Oct. 17, 1998, 112 Stat. 2041, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.''

EFFECTIVE DATE OF 1987 AMENDMENT

Section 624(b) of Pub. L. 100–180 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on the first day of the fourth calendar month following the month in which this Act is enacted [Dec. 1987] and shall apply only with respect to diving duty performed on or after that date.''

## § 305. Special pay: hardship duty pay

(a) SPECIAL PAY AUTHORIZED.—A member of a uniformed service who is entitled to basic pay may be paid special pay under this section while the member is performing duty that is designated by the Secretary of Defense as hardship duty.

(b) PAYMENT ON MONTHLY OR LUMP SUM BASIS.—Special pay payable under this section may be paid on a monthly basis or in a lump sum.

(c) MAXIMUM RATE OR AMOUNT.—(1) The monthly rate of special pay payable to a member under this section may not exceed $1,500.

(2) The amount of the lump sum payment of special pay payable to a member under this section may not exceed the product of—

(A) the maximum monthly rate in effect under paragraph (1) at the time the member qualifies for payment of special pay under this section; and

(B) the number of months during which the member will be performing the designated hardship duty.

(d) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Special pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

(e) REPAYMENT.—A member who is paid special pay in a lump sum under this section, but who fails to perform the designated hardship duty during the months included in the calculation of the amount of the lump sum under subsection (c)(2), shall be subject to the repayment provisions of section 303a(e) of this title.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the payment of hardship duty pay under this section, including the specific monthly rates at which the special pay will be available.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 465; Pub. L. 88–132, §12(a), Oct. 2, 1963, 77 Stat. 217; Pub. L. 90–623, §3(4), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 95–485, title VIII, §804(b)(1), Oct. 20, 1978, 92 Stat. 1620; 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(a)–(c)(1), Nov. 18, 1997, 111 Stat. 1789, 1790; Pub. L. 105–261, div. A, title VI, §617(a), (c)(1), Oct. 17, 1998, 112 Stat. 2041; Pub. L. 109–163, div. A, title VI, §627, Jan. 6, 2006, 119 Stat. 3296; Pub. L. 110–181, div. A, title VI, §617, Jan. 28, 2008, 122 Stat. 150.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 305(a) ..... | 37:237. | Oct. 12, 1949, ch. 681, §206, 63 Stat. 811; May 20, 1958, Pub. L. 85–422, §1(7), 72 Stat. 125. |
| 305(b) ..... | 37:237a. | June 30, 1954, ch. 432, §729, 68 Stat. 355. |

In subsection (a), the words ''Except as provided by subsection (b) of this section'' are inserted for clarity. The words ''is also . . . entitled'' are substituted for the words ''shall, in addition thereto . . . be entitled''. The words ''any place outside the United States, or in Alaska or Hawaii'' are substituted for the words ''beyond the continental limits of the United States or in Alaska'', since, under the source statute, Hawaii was beyond the continental limits of the United States, and the United States, as defined in section 101(1) of this revised title, would otherwise include Alaska and Hawaii. This interpretation conforms to the opinion of the Comptroller General, B–138956, April 20, 1959 (38 Comp. Gen. 710).

In subsection (b), the words ''Appropriation of'' are substituted for the words ''of the funds appropriated to'' The words ''may not be paid'' are substituted for the words ''no part . . . shall be available for the payment'' The words ''member of a uniformed service'' are substituted for the words ''person in the military service'' to conform to subsection (a). The words ''Puerto Rico'' are inserted for clarity, since the source statute was applicable to that place. The words ''Virgin Islands'' are inserted, since that unincorporated territory is not covered by the word ''possession''. The word ''Territory'' is omitted as obsolete.

AMENDMENTS

2008—Pub. L. 110–181 amended section generally. Prior to amendment, text read as follows:

''(a) SPECIAL PAY AUTHORIZED.—A member of a uniformed service who is entitled to basic pay may be paid special pay under this section at a monthly rate not to exceed $750 while the member is performing duty in the United States or outside the United States that is designated by the Secretary of Defense as hardship duty.

''(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the provision of hardship duty pay under subsection (a), including the specific monthly rates at which the special pay will be available.''

2006—Subsec. (a). Pub. L. 109–163 substituted ''$750'' for ''$300''.

1998—Pub. L. 105–261, §617(c)(1), struck out ''location'' after ''duty'' in section catchline.

Subsec. (a). Pub. L. 105–261, §617(a)(1), substituted ''performing duty in the United States or outside the United States that is designated by the Secretary of Defense as hardship duty.'' for ''on duty at a location in the United States or outside the United States designated by the Secretary of Defense as a hardship duty location.''

Subsec. (b). Pub. L. 105–261, §617(a)(4), redesignated subsec. (d) as (b).

Pub. L. 105–261, §617(a)(2), struck out heading and text of subsec. (b). Text read as follows: ''Appropriations of the Department of Defense may not be paid, as hardship duty location pay under subsection (a), to a member of a uniformed service who is a resident of a State, Puerto Rico, the Virgin Islands, a possession, or a foreign country and who is serving in that State, Puerto Rico, the Virgin Islands, that possession, or that foreign country, as the case may be.''

Subsec. (c). Pub. L. 105–261, §617(a)(2), struck out heading and text of subsec. (c). Text read as follows: ''A member receiving special pay under section 305a of this title may not be paid hardship duty location pay under subsection (a) for the same period of service.''

Subsec. (d). Pub. L. 105–261, §617(a)(4), redesignated subsec. (d) as (b).

Pub. L. 105–261, §617(a)(3), substituted ''hardship duty pay'' for ''hardship duty location pay''.

1997—Pub. L. 105–85, §619(c)(1), substituted ''hardship duty location pay'' for ''while on duty at certain places'' in section catchline.

Subsec. (a). Pub. L. 105–85, §619(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Except as provided by subsections (b) and (c), under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay may, while on duty at a designated place outside the 48 contiguous States and the District of Columbia, be paid special pay at the following monthly rates:

| Pay grade | Monthly rate |
|---|---|
| E–9 ..... | $22.50 |
| E–8 ..... | 22.50 |
| E–7 ..... | 22.50 |
| E–6 ..... | 20.00 |
| E–5 ..... | 16.00 |
| E–4 ..... | 13.00 |
| E–3 ..... | 9.00 |
| E–2 ..... | 8.00 |
| E–1 ..... | 8.00.'' |

Subsec. (b). Pub. L. 105–85, §619(b)(1), inserted heading and substituted ''as hardship duty location pay'' for ''as foreign duty pay'' in text.

Subsec. (c). Pub. L. 105–85, §619(b)(2), inserted heading and substituted ''hardship duty location pay under subsection (a)'' for ''special pay under this section'' in text.

Subsec. (d). Pub. L. 105–85, §619(b)(3), added subsec. (d).

1991—Subsec. (a). Pub. L. 102–25 struck out ''of this section'' after ''subsections (b) and (c)''.

Subsec. (b). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

1978—Pub. L. 95–485, § 804(b)(1)(C), substituted ''on duty'' for ''on sea duty or duty'' in section catchline.

Subsec. (a). Pub. L. 95–485, § 804(b)(1)(A), inserted reference to subsec. (c) of this section and struck out provision entitling an enlisted member of a uniformed service who is entitled to basic pay to special pay while on sea duty.

Subsec. (c). Pub. L. 95–485, § 804(b)(1)(B), added subsec. (c).

1968—Subsec. (a)(2). Pub. L. 90–623 substituted ''48 contiguous States'' for ''contiguous 48 States''.

1963—Pub. L. 88–132 substituted ''while on sea duty or duty at certain places'' for ''sea and foreign duty'' in section catchline.

Subsec. (a). Pub. L. 88–132 designated existing provisions as cl. (1) and substituted provisions of cl. (2) permitting special pay for an enlisted member of a uniformed service while on duty at a designated place outside the contiguous 48 States and the District of Columbia for former provision entitling such member to special pay while on duty in any place outside the United States, or in Alaska or Hawaii.

Subsec. (b). Pub. L. 88–132 substituted ''a State, Puerto Rico, the Virgin Islands, a possession, or a foreign country and who is serving in that State, Puerto Rico, the Virgin Islands, that possession, or that foreign country'' for ''Alaska, Hawaii, Puerto Rico, the Virgin Islands, or a possession, unless that member is serving in an area outside Alaska, Hawaii, the Virgin Islands, or a possession, of which he is a resident''.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 804(b)(3) of Pub. L. 95–485 provided that: ''The amendments made by this subsection [amending this section] shall take effect on October 1, 1978.''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of this title.

SAVINGS PROVISION

Section 12(b) of Pub. L. 88–132 provided that: ''Notwithstanding subsection (a) [amending this section], an enlisted member who, on the day before the effective date of this Act [Oct. 1, 1963], was permanently assigned to duty at a place outside the United States or in Alaska or Hawaii, shall, during the remaining period of that assignment, but not after that place is designated for the purpose of section 305(a)(2) of title 37, United States Code, be paid the basic pay to which he was entitled on that date plus special pay under section 305 of title 37, United States Code, whenever qualified thereunder as that section was in effect on the day before the effective date of this Act, if the total of that basic pay and that special pay is more than the basic pay to which he would otherwise be entitled during that period under section 2 of this Act [amending section 203 of this title].''

TRANSITION PROVISION

Section 619(e) of Pub. L. 105–85 provided that: ''Until such time as the Secretary of Defense prescribes regulations regarding the provision of hardship duty location pay under section 305 of title 37, United States Code, as amended by this section, the Secretary may continue to use the authority provided by such section 305, as in effect on the day before the date of the enactment of this Act [Nov. 18, 1997], to provide special pay to enlisted members of the uniformed services on duty at certain places.''

SEA DUTY PERFORMED BETWEEN OCTOBER 1, 1978, AND SEPTEMBER 30, 1981

Section 804(c) of Pub. L. 95–485 provided that: ''Any individual who on September 30, 1978, is an enlisted member of a uniformed service shall be eligible to receive special pay under section 305(a)(1) of title 37, United States Code, as in effect on September 30, 1978, for any period of sea duty performed by such individual during the period beginning on October 1, 1978, and ending on September 30, 1981, for which such individual does not receive special pay under section 305a of such title (as added by subsection (a)).''

EXECUTIVE ORDER NO. 10168

Ex. Ord. No. 10168, Oct. 11, 1950, 15 F.R. 6877, as amended by Ex. Ord. No. 10821, May 20, 1959, 24 F.R. 4123; Ex. Ord. No. 10989, Jan. 23, 1962, 27 F.R. 727; Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631, which concerned regulations relating to special pay for sea duty and duty at certain places, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, formerly set out as a note under section 301 of this title.

## § 305a. Special pay: career sea pay

(a) AVAILABILITY OF SPECIAL PAY.—A member of a uniformed service who is entitled to basic pay is also entitled, while on sea duty, to special pay at the applicable rate under subsection (b).

(b) RATES; MAXIMUM.—The Secretary concerned shall prescribe the monthly rates for special pay applicable to members of each armed force under the Secretary's jurisdiction. No monthly rate may exceed $750.

(c) PREMIUM.—A member of a uniformed service entitled to career sea pay under this section who has served 36 consecutive months of sea duty is also entitled to a career sea pay premium for the thirty-seventh consecutive month and each subsequent consecutive month of sea duty served by such member. The monthly amount of the premium shall be prescribed by the Secretary concerned, but may not exceed $350.

(d) REGULATIONS.—The Secretary concerned shall prescribe regulations for the administration of this section for the armed force or armed forces under the jurisdiction of the Secretary. The entitlements under this section shall be subject to the regulations.

(e) DEFINITION OF SEA DUTY.—(1) In this section, the term ''sea duty'' means duty performed by a member—

(A) while permanently or temporarily assigned to a ship and—

(i) while serving on a ship the primary mission of which is accomplished while under way;

(ii) while serving as a member of the off-crew of a two-crewed submarine;

(iii) while serving as a member of a tender-class ship (with the hull classification of submarine or destroyer); or

(iv) while serving as an off-cycle crewmember of a multi-crewed ship; or

(B) while permanently or temporarily assigned to a ship and while serving on a ship the primary mission of which is normally accomplished while in port, but only during a period that the ship is away from its homeport.

(2) The Secretary concerned may designate duty performed by a member while serving on a ship the primary mission of which is accomplished either while under way or in port as ''sea duty'' for purposes of this section, even though the duty is performed while the member is permanently or temporarily assigned to a ship-based staff or other unit not covered by paragraph (1).

(3) For the purpose of determining the years of sea duty with which a member may be credited for purposes of this section, the term ''sea duty'' also includes duty performed after December 31, 1988, by a member while permanently or temporarily assigned to a ship or ship-based staff and while serving on a ship on which the member would be entitled, during a period that the ship is away from its homeport, to receive sea pay by reason of paragraph (1)(B).

(4) A ship shall be considered to be away from its homeport for purposes of this subsection when it is—

(A) at sea; or

(B) in a port that is more than 50 miles from its homeport.

(Added Pub. L. 95–485, title VIII, § 804(a)(1), (2), Oct. 20, 1978, 92 Stat. 1620; amended Pub. L. 96–343, § 3(a), (b), Sept. 8, 1980, 94 Stat. 1124; Pub. L. 96–579, § 4(a), Dec. 23, 1980, 94 Stat. 3364; Pub. L. 97–60, title I, § 116, Oct. 14, 1981, 95 Stat. 996; Pub. L. 97–295, § 3(1), Oct. 12, 1982, 96 Stat. 1303; Pub. L. 98–525, title VI, § 623(a), Oct. 19, 1984, 98 Stat. 2541; Pub. L. 99–145, title VI, § 634(a), Nov. 8, 1985, 99 Stat. 647; Pub. L. 100–26, § 8(e)(5), Apr. 21, 1987, 101 Stat. 286; Pub. L. 100–180, div. A, title VI, § 621(a)–(c), Dec. 4, 1987, 101 Stat. 1097, 1099; Pub. L. 100–224, § 5(a)(1), Dec. 30, 1987, 101 Stat. 1538; Pub. L. 100–456, div. A, title XII, § 1233(b)(1), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 101–189, div. A, title VI, § 653(b), Nov. 29, 1989, 103 Stat. 1462; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title XI, § 1111(d)(3), Dec. 5, 1991, 105 Stat. 1492; Pub. L. 104–106, div. A, title VI, § 618, Feb. 10, 1996, 110 Stat. 362; Pub. L. 105–85, div. A, title VI, § 620, Nov. 18, 1997, 111 Stat. 1790; Pub. L. 106–398, § 1 [[div. A], title VI, § 630(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–156; Pub. L. 110–181, div. A, title VI, § 618, Jan. 28, 2008, 122 Stat. 151.)

AMENDMENTS

2008—Subsec. (e)(1)(A)(iv). Pub. L. 110–181 added cl. (iv).

2000—Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title VI, § 630(a)(1)], inserted heading and substituted ''A member'' for ''Under regulations prescribed by the President, a member'' in text.

Subsec. (b). Pub. L. 106–398, § 1 [[div. A], title VI, § 630(a)(3)], added subsec. (b) and struck out former subsec. (b) which contained tables specifying the monthly rates for special pay under subsec. (a) for enlisted members, warrant officers, and commissioned officers.

Subsec. (c). Pub. L. 106–398, § 1 [[div. A], title VI, § 630(a)(3)], added subsec. (c) and struck out former subsec. (c) which read as follows: ''Under regulations prescribed by the President, a member of a uniformed service who is entitled to career sea pay under this section who has served 36 consecutive months of sea duty (other than an enlisted member in a pay grade above E–4 with more than five years of sea duty) is entitled to a career sea pay premium of $100 a month for the thirty-seventh consecutive month and each subsequent consecutive month of sea duty served by such member.''

Subsec. (d). Pub. L. 106–398, § 1 [[div. A], title VI, § 630(a)(3)], added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 106–398, § 1 [[div. A], title VI, § 630(a)(2), (b)], redesignated subsec. (d) as (e) and inserted heading.

1997—Subsec. (d)(1)(A). Pub. L. 105–85, § 620(1), struck out '', ship-based staff, or ship-based aviation unit'' after ''assigned to a ship''.

Subsec. (d)(1)(B). Pub. L. 105–85, § 620(2), struck out ''or ship-based staff'' after ''assigned to a ship''.

Subsec. (d)(2) to (4). Pub. L. 105–85, § 620(3), (4), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1996—Subsec. (d)(1)(A). Pub. L. 104–106 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while under way or while serving as a member of the off-crew of a two-crewed submarine; or''.

1991—Subsec. (a). Pub. L. 102–25 struck out ''of this section'' after ''subsection (b)''.

Subsec. (b). Pub. L. 102–190, in table pertaining to warrant officers, added provisions relating to pay grade W–5 in three places.

1989—Subsec. (b). Pub. L. 101–189 inserted ''COMMISSIONED'' before ''OFFICERS'' in heading of table relating to officers in pay grades O–1 through O–6.

1988—Subsec. (d)(2). Pub. L. 100–456 substituted ''after December 31, 1988,'' for ''on or after the effective date specified in section 621(e)(1) of the National Defense Authorization Act for Fiscal Year 1988''.

1987—Subsec. (b). Pub. L. 100–224 substituted ''Over 14'' for ''Over 13'' in table relating to warrant officers.

Pub. L. 100–180, § 621(a), in amending subsec. (b) generally, struck out ''of this section'' after ''subsection (a)'' in introductory provisions and amended table pertaining to enlisted members so as to reflect downward adjustment in monthly special pay rates for persons in pay grade E–4 having over 2 years of sea duty and for persons in pay grades E–5 through E–9 having less than 5 years of sea duty, and amended table so as to reflect upward adjustment for persons in pay grades E–5 through E–9 having over 5 years of sea duty, amended table pertaining to warrant officers so as to reflect upward adjustment for persons in pay grades W–1 through W–3 having over 9 years of sea duty and for persons in pay grade W–4 having over 10 years of sea duty, and in table pertaining to officers for pay grade O–4 substituted ''220'' for ''215'' in the column for ''Over 8''.

Subsec. (c). Pub. L. 100–180, § 621(b), inserted ''(other than an enlisted member in a pay grade above E–4 with more than five years of sea duty)'' after first reference to ''sea duty''.

Subsec. (d). Pub. L. 100–180, § 621(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''In this section, the term 'sea duty' means duty performed by a member—

''(1) while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while underway or while serving as a member of the off crew of a two-crewed submarine; or

''(2) while permanently or temporarily assigned to a ship or ship-based staff and while serving on a ship the primary mission of which is normally accomplished while in port, but only during a period that the ship is away from its homeport for 30 consecutive days or more.

A ship is considered away from its homeport for purposes of clause (2) of the first sentence when it is at sea or in a port that is more than 50 miles from its homeport.''

Pub. L. 100–26 substituted ''In this section,'' for ''For the purposes of this section,''.

1985—Subsec. (b). Pub. L. 99–145 amended table for warrant officers for pay grade W–3 by substituting ''330'' for ''310'' in column for ''Over 12'', and for pay grade W–4, substituted ''320'' for ''310'' in column for ''Over 10'', substituted ''330'' for ''310'' in column for ''Over 11'', and ''350'' for ''310'' in column for ''Over 12'', inserted columns for ''Over 14'', ''Over 16'', ''Over 18'', and ''Over 20'', and in table for commissioned officers inserted columns for ''Over 14'', ''Over 16'', ''Over 18'', and ''Over 20'', and struck out the subscript qualifier for pay grades O–1 and O–2, which read: ''Commissioned officers with at least four years of active service as enlisted members or as noncommissioned warrant officers''.

1984—Subsec. (b). Pub. L. 98–525 amended table relating to rates of pay for enlisted members by substituting ''265'' for ''255'' and ''320'' for ''310'' in column for ''Over 10'', ''265'' for ''255'' and ''330'' for ''310'' in column for ''Over 11'', ''280'' for ''255'', ''320'' for ''310'', and ''350'' for ''310'' in column for ''Over 12'', and inserted columns for ''Over 13'', ''Over 14'', ''Over 16'', and ''Over 18''.

1982—Subsec. (d). Pub. L. 97–295 substituted ''clause (2)'' for ''clause (B)'' after ''for purposes of''.

1981—Subsec. (d)(1). Pub. L. 97–60 inserted provisions relating to service as a member of the off crew of a two-crewed submarine.

1980—Subsec. (a). Pub. L. 96–579 substituted provision declaring a member of a uniformed service entitled to basic pay as eligible for special pay for prior provision for eligibility to such pay of an enlisted member of a uniformed service entitled to basic pay, in pay grade E–4 or above, with three years of sea duty.

Subsec. (b). Pub. L. 96–579 substituted special monthly pay table for enlisted members, warrant officers, and commissioned officers for prior special monthly rate for enlisted members for sea duty above prescribed number of years: $29, 3 yrs.; $40, 5 yrs.; $52, 7 yrs.; $63, 9 yrs.; $75, 10 yrs.; $86, 11 yrs.; and $115, 12 yrs.

Pub. L. 96–343 substituted provision authorizing monthly rates of special pay of $29 for over 3 years, $40 for over 5 years, $52 for over 7 years, $63 for over 10 years, $86 for over 11 years, and $115 for over 12 years for provision authorizing monthly rates of special pay during fiscal year 1979 or 1980 of $25 for over 3 years, $35 for over 5 years, and $55 for over 12 years and for fiscal year 1981 rates of $25 for over 3 years, $35 for over 5 years, $45 for over 7 years, and $55 for over 12 years.

Subsecs. (c), (d). Pub. L. 96–579 added subsecs. (c) and (d).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title VI, § 630(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–156, provided that: ''The amendments made by this section [amending this section] shall take effect on October 1, 2000, and shall apply with respect to months beginning on or after that date.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1987 AMENDMENT; SAVE PAY; DEFINITIONS

Section 621(d)–(f) of Pub. L. 100–180 provided that:

''(d) SAVE PAY.—A member of the uniformed services who at any time during the three-month period ending on the day before the effective date applicable to that member under subsection (e) for the new rates of career sea pay is entitled to career sea pay at a rate that is higher than the rate established under such new rates for the member's pay grade and years of sea duty shall be paid such special pay, when entitled to receive it, at such higher rate until the member is permanently reassigned to duty for which the member is not entitled to such special pay. In the case of a member covered by the preceding sentence who is reduced in grade under the Uniform Code of Military Justice (chapter 47 of title 10, United States Code), the old rate of career sea pay applicable to such member under the preceding sentence which may be paid in lieu of the rate applicable to the member under the new rates of career sea pay shall be the rate under the old rates of career sea pay for the member's pay grade as so reduced and the member's years of sea duty.

''(e) EFFECTIVE DATE.—(1) Except as provided under paragraph (2), the amendments made by this section [amending this section] shall take effect on the first day of the first month beginning after the date of the enactment of this Act [Dec. 4, 1987] and shall apply with respect to duty performed on or after that date.

''(2) The new rates of career sea pay that are applicable to enlisted members in pay grades above pay grade E-4 who have five or more years of sea duty and the amendment made by subsection (b) [amending this section] shall take effect on the first day of the fourth month beginning after the effective date specified under paragraph (1). In the case of such members, the old rates of career sea pay shall remain in effect until the new rates take effect under the preceding sentence.

''(f) DEFINITIONS.—For purposes of subsections (d) and (e):

''(1) The term 'career sea pay' means special pay under section 305a of title 37, United States Code.

''(2) The term 'old rates', with respect to career sea pay, means the rates of such pay in effect on the date of the enactment of this Act [Dec. 4, 1987].

''(3) The term 'new rates', with respect to career sea pay, means the rates of such pay provided by the amendment made by subsection (a) [amending this section].''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 634(b) of Pub. L. 99–145 provided that: ''The amendment made by this section [amending this section] shall take effect on October 1, 1985.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 623(c) of Pub. L. 98–525 provided that: ''The amendments made by this section [amending this section and section 307 of this title] shall take effect on October 1, 1984.''

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 4(b) of Pub. L. 96–579 provided: ''The amendment made by this section [amending this section] shall be effective with respect to special pay payable under section 305a of title 37, United States Code, for months after the month in which this section is enacted [December 1980].''

Section 3(c) of Pub. L. 96–343 provided that: ''The amendments made by this section [amending this section and repealing section 804(a)(2) of Pub. L. 95–485, formerly set out as a note below] shall be effective with respect to special pay payable under section 305a of title 37, United States Code, for months after August 1980.''

EFFECTIVE DATE

Section 804(a)(1) of Pub. L. 95–485 provided that this section is effective Oct. 1, 1978.

REPEALS

Pub. L. 95–485, title VIII, § 804(a)(2), Oct. 20, 1978, 92 Stat. 1620, which amended subsec. (b) of this section effective Oct. 1, 1981, to provide for monthly rates of special pay of $25 for over 3 years, $35 for over 5 years, $45 for over 7 years, $55 for over 9 years, $65 for over 10 years, $75 for over 11 years, and $100 for over 12 years was repealed by Pub. L. 96–343, § 3(b), Sept. 8, 1980, 94 Stat. 1124.

DETERMINATION OF AMOUNT OF SEA CREDIT; PERIODS PRIOR TO OCTOBER 1, 1978

Section 804(a)(3) of Pub. L. 95–485 provided that: ''In determining the amount of sea duty to be credited to

an enlisted member of a uniformed service for purposes of section 305a of title 37, United States Code (as added by paragraph (1)), the Secretary concerned shall credit such member with all periods of service by such member before October 1, 1978, during which such member served in a sea duty status.''

### §305b. Special pay: service as member of Weapons of Mass Destruction Civil Support Team

(a) SPECIAL PAY AUTHORIZED.—The Secretary of a military department may pay special pay under this subsection to members of an armed force under the jurisdiction of the Secretary who are entitled to basic pay under section 204 and are assigned by orders to duty as members of a Weapons of Mass Destruction Civil Support Team if the Secretary determines that the payment of such special pay is needed to address recruitment or retention concerns in that armed force.

(b) MONTHLY RATE.—The monthly rate of special pay under subsection (a) may not exceed $150.

(c) INCLUSION OF RESERVE COMPONENT MEMBERS PERFORMING INACTIVE DUTY TRAINING.—(1) To the extent funds are made available to carry out this subsection, the Secretary of a military department may pay the special pay under subsection (a) to members of a reserve component of the armed forces who are entitled to compensation under section 206 of this title and who perform duty under orders as members of a Weapons of Mass Destruction Civil Support Team.

(2) The amount of the special pay for a member referred to in paragraph (1) shall be equal to 1/30 of the monthly special pay rate in effect under subsection (b) for each day on which the member performs duty under orders as members of a Weapons of Mass Destruction Civil Support Team.

(d) REGULATIONS.—Special pay under this section shall be provided in accordance with regulations prescribed by the Secretary of Defense.

(e) DEFINITION.—In this section, the term ''Weapons of Mass Destruction Civil Support Team'' means a team of members of the reserve components of the armed forces that is established under section 12310(c) of title 10 in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction.

(Added Pub. L. 108–136, div. A, title VI, §624(a), Nov. 24, 2003, 117 Stat. 1505.)

### §306. Special pay: officers holding positions of unusual responsibility and of critical nature

(a)(1) The Secretary concerned may designate positions of unusual responsibility which are of a critical nature to an armed force under his jurisdiction and may pay special pay, in addition to other pay prescribed by law, to an officer of an armed force described in paragraph (2) who is performing the duties of such a position, at the following monthly rates:

| Pay Grade | Monthly Rate |
|---|---|
| O–6 | $150 |
| O–5 | 100 |
| O–4 and below | 50 |

(2) An officer of the armed forces referred to in paragraph (1) is an officer who is entitled to the basic pay under section 204 of this title, or the compensation under section 206 of this title, of pay grade O–6 or below.

(b) If an officer entitled to compensation under section 206 of this title is paid special pay under subsection (a) for the performance of duties in a position designated under such subsection, the special pay shall be paid at the rate of 1/30 of the monthly rate authorized by such subsection for each day of the performance of duties in the designated position.

(c) The Secretary concerned shall prescribe the criteria and circumstances under which officers of an armed force under his jurisdiction are eligible for special pay under this section and, when he considers it necessary, may abolish that special pay.

(d)(1) Not more than 5 percent of the number of officers on active duty (other than for training or mobilization in support of a contingency operation) in an armed force in each of the pay grades O–3 and below, and not more than 10 percent of the number of officers on active duty in an armed force in pay grade O–4, O–5, or O–6, may be paid special pay under this section.

(2) Of the number of officers in the Selected Reserve of the Ready Reserve of an armed force who are not on active duty (other than for training or mobilization in support of a contingency operation), not more than 5 percent of the number of such officers in each of the pay grades O–3 and below, and not more than 10 percent of the number of such officers in pay grade O–4, O–5, or O–6, may be paid special pay under subsection (b).

(e) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction, and by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(f) This section does not apply to a person who is entitled to special pay under section 302, 302a, 302b, or 303 of this title.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 466; Pub. L. 90–623, §3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96–284, §6, June 28, 1980, 94 Stat. 593; Pub. L. 96–470, title II, §202(b), Oct. 19, 1980, 94 Stat. 2242; Pub. L. 97–322, title I, §116, Oct. 15, 1982, 96 Stat. 1586; Pub. L. 101–510, div. A, title XIII, §1322(c)(3), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102–587, title V, §5205, Nov. 4, 1992, 106 Stat. 5074; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title VI, §616, Nov. 24, 2003, 117 Stat. 1502.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 306(a) | 37:241(a) (less last sentence). | Oct. 12, 1949, ch. 681, §210; added May 20, 1958, Pub. L. 85–422, §1(8), 72 Stat. 126. |
| 306(b) | 37:241(a) (last sentence). | |
| 306(c) | 37:241(b). | |

HISTORICAL AND REVISION NOTES—Continued

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 306(d) ..... | 37:241(c). | |
| 306(e) ..... | 37:241(d). | |
| 306(f) ..... | 37:241(e). | |

In subsection (a), the words ''an armed force under his jurisdiction'' are substituted for the words ''the service concerned'' in the first sentence of section 241(a) of existing title 37 to conform to the last sentence of that subsection.

In subsection (c), the words ''(other than for training)'' are inserted for clarity, since members on duty for training only are not included in computing strength authorizations.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, § 616(a)(1), designated existing provisions as par. (1), substituted ''described in paragraph (2)'' for ''who is entitled to the basic pay of pay grade O–6 or below and'', and added par. (2).

Subsec. (b). Pub. L. 108–136, § 616(a)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108–136, § 616(a)(2), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 108–136, § 616(b), designated existing provisions as par. (1), inserted ''or mobilization in support of a contingency operation'' after ''training'', and added par. (2).

Pub. L. 108–136, § 616(a)(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsecs. (e), (f). Pub. L. 108–136, § 616(a)(2), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

2002—Subsec. (d). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1992—Subsec. (a). Pub. L. 102–587, § 5205(a), substituted ''of pay grade O–6 or below'' for ''of pay grade O–3, O–4, O–5, or O–6'' in text and amended table by substituting ''O–4 and below'' for ''O–4'' and striking out line providing monthly rate of $50 for pay grade O–3.

Subsec. (c). Pub. L. 102–587, § 5205(b), substituted ''in each of the pay grades O–3 and below,'' for ''in pay grade O–3,''.

1990—Subsec. (f). Pub. L. 101–510 struck out subsec. (f) which read as follows: ''The Secretary of Defense shall report to Congress by March 1 of each year following a calendar year in which special pay is disbursed under this section. Negative reports need not be submitted.''

1982—Subsec. (f). Pub. L. 97–322 struck out last sentence providing that the Secretary of Transportation shall make a similar report for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

1980—Subsec. (e). Pub. L. 96–284 made section inapplicable to a person entitled to special pay under section 302a or 302b of this title.

Subsec. (f). Pub. L. 96–470 substituted provision requiring the Secretary of Defense to report by Mar. 1 of each year following a calendar year in which special pay is disbursed under this section and providing that negative reports need not be submitted for provision requiring the Secretary of Defense to report by Mar. 1 of each year on the administration of this section within each military department during the preceding calendar year.

1968—Subsecs. (d), (f). Pub. L. 90–623 substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on October 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

## § 306a. Special pay: members assigned to international military headquarters

Not more than nine members of the armed forces, including members detailed to international military headquarters, may be paid pay and allowances at rates referred to in section 625(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2385(d)).

(Added Pub. L. 98–525, title XIV, § 1402(b)(1), Oct. 19, 1984, 98 Stat. 2621.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in the following prior appropriations acts:

Oct. 12, 1984, Pub. L. 98–473, title I, § 101(h) [title VIII, § 8005], 98 Stat. 1904, 1922.

Dec. 8, 1983, Pub. L. 98–212, title VII, § 708, 97 Stat. 1438.

Dec. 21, 1982, Pub. L. 97–377, title I, § 101(c) [title VII, § 708], 96 Stat. 1833, 1850.

Dec. 29, 1981, Pub. L. 97–114, title VII, § 708, 95 Stat. 1579.

Dec. 15, 1980, Pub. L. 96–527, title VII, § 708, 94 Stat. 3081.

Dec. 21, 1979, Pub. L. 96–154, title VII, § 708, 93 Stat. 1152.

Oct. 13, 1978, Pub. L. 95–457, title VIII, § 808, 92 Stat. 1244.

Sept. 21, 1977, Pub. L. 95–111, title VIII, § 807, 91 Stat. 899.

Sept. 22, 1976, Pub. L. 94–419, title VII, § 707, 90 Stat. 1291.

Feb. 9, 1976, Pub. L. 94–212, title VII, § 707, 90 Stat. 168.

Oct. 8, 1974, Pub. L. 93–437, title VIII, § 807, 88 Stat. 1225.

Jan. 2, 1974, Pub. L. 93–238, title VII, § 707, 87 Stat. 1038.

Oct. 26, 1972, Pub. L. 92–570, title VII, § 707, 86 Stat. 1196.

Dec. 18, 1971, Pub. L. 92–204, title VII, § 707, 85 Stat. 727.

Jan. 11, 1971, Pub. L. 91–668, title VIII, § 807, 84 Stat. 2030.

Dec. 29, 1969, Pub. L. 91–171, title VI, § 607, 83 Stat. 480.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of Title 10, Armed Forces.

## § 307. Special pay: special duty assignment pay for enlisted members

(a) An enlisted member who is entitled to basic pay and is performing duties which have been designated under subsection (b) as extremely difficult or as involving an unusual degree of responsibility in a military skill may, in addition to other pay or allowances to which he is entitled, be paid special duty assignment pay at a monthly rate not to exceed $600.

(b) The Secretary concerned shall determine which enlisted members under his jurisdiction are to be paid special duty assignment pay under subsection (a). He shall also designate those skills within each armed force under his

jurisdiction for which special duty assignment pay is authorized and shall prescribe the criteria under which members of that armed force are eligible for special duty assignment pay in each skill. He may increase, decrease, or abolish such pay for any skill.

(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(d)(1) Under regulations prescribed by the Secretary concerned and to the extent provided for by appropriations, when an enlisted member of the National Guard or a reserve component of a uniformed service who is entitled to compensation under section 206 of this title performs duty for which a member described in subsection (a) is entitled to special pay under such subsection, the member of the National Guard or reserve component is entitled to an increase in compensation equal to 1/30 of the monthly special duty assignment pay prescribed by the Secretary concerned for the performance of that same duty by members described in subsection (a).

(2) A member of the National Guard or a reserve component entitled to an increase in compensation under paragraph (1) is entitled to the increase—

(A) for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least two hours, including that performed on a Sunday or holiday; or

(B) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title.

(3) This subsection does not apply to a member of the National Guard or a reserve component who is entitled to basic pay under section 204 of this title.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 467; Pub. L. 90–623, §3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 98–525, title VI, §623(b)(1), Oct. 19, 1984, 98 Stat. 2541; Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title VI, §619(a), Feb. 10, 1996, 110 Stat. 363; Pub. L. 106–398, §1 [[div. A], title VI, §§631, 632(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–156; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 307(a) ..... | 37:240(a). | Oct. 12, 1949, ch. 681, §209; added May 20, 1958, Pub. L. 85–422, §1(8), 72 Stat. 125. |
| 307(b) ..... | 37:240(b). | |
| 307(c) ..... | 37:240(c). | |
| 307(d) ..... | 37:240(d). | |

In subsection (a)(1), the words ''prescribed in section 232(a) of this title'' and ''in accordance with his cumulative years of service for pay purposes'' are omitted as surplusage and as covered by sections 201, 202, and 203 of this revised title.

In subsection (a)(2), the words ''special or incentive pays'' are omitted as surplusage.

In subsections (a)(1) and (b), the word ''allowances'' is omitted, since, under sections 402 and 403 of this revised title, allowances depend upon pay grade to which assigned, or in which distributed for basic pay purposes.

In subsection (b), the words ''computed under section 205 of this title'' are substituted for the words ''cumulative . . . for pay purposes''.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

2000—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title VI, §631], substituted ''$600'' for ''$275'' and struck out at end ''In the case of a member who is serving as a military recruiter and is eligible for special duty assignment pay under this subsection on account of such duty, the Secretary concerned may increase the monthly rate of special duty assignment pay for the member to not more than $375.''

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title VI, §632(a)], added subsec. (d).

1996—Subsec. (a). Pub. L. 104–106 inserted at end ''In the case of a member who is serving as a military recruiter and is eligible for special duty assignment pay under this subsection on account of such duty, the Secretary concerned may increase the monthly rate of special duty assignment pay for the member to not more than $375.''

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)''.

1984—Pub. L. 98–525 substituted ''special duty assignment pay for enlisted members'' for ''proficiency pay for enlisted members'' in section catchline.

Subsec. (a). Pub. L. 98–525 substituted provisions directing that an enlisted member who is entitled to basic pay and is performing duties which have been designated under subsection (b) of this section as extremely difficult or as involving an unusual degree of responsibility in a military skill may, in addition to other pay or allowances to which he is entitled, be paid special duty assignment pay at a monthly rate not to exceed $275, for provisions which directed that an enlisted member of a uniformed service who was entitled to basic pay and was designated as being specially proficient in a military skill of the uniformed service concerned could (1) be advanced to an enlisted pay grade that was higher than his pay grade at the time of his designation and be entitled to the basic pay and special or incentive pay of that higher grade, or (2) in addition to other pay or allowances to which he was entitled under this title, be paid proficiency pay at a monthly rate that was not more than the rate prescribed in a table for the proficiency rating to which he was assigned, setting maximum monthly rates of $50, $100, or $150.

Subsec. (b). Pub. L. 98–525 redesignated subsec. (c) as (b), substituted references to special duty assignment pay for former references to proficiency pay, and struck out provisions which had authorized the Secretary to elect one of two methods formerly set out in subsecs. (a)(1) and (a)(2) for paying each uniformed service under his jurisdiction, with a proviso that if he elected to have proficiency pay paid under former subsec. (a)(1) of this section, enlisted members in a military grade or rank assigned to pay grade E–8 or E–9 could be paid proficiency pay at a monthly rate that is not more than the highest rate prescribed by subsection (a)(2) of this section, but if he elected to have proficiency pay paid under subsection (a)(2) of this section, he could prescribe, within the limitations set forth in that subsection, the pay for each proficiency rating prescribed therein. Former subsec. (b), which had provided that an enlisted member who had less than 8 or 10 years, as the case might be, of enlisted service computed under section 205 of this title and who had been advanced under subsection (a)(1) of this section to pay grade E–8 or E–9, respectively, was entitled to the minimum amount of basic pay and special or incentive pay prescribed for that pay grade until his years of service computed under that section entitled him to a higher rate of those pays, was struck out.

Subsecs. (c), (d). Pub. L. 98–525 redesignated subsec. (d) as (c) and substituted ''armed forces under his jurisdiction'' for ''uniformed services under his jurisdiction''. Former subsec. (c) redesignated (b) and amended.

1968—Subsec. (d). Pub. L. 90–623 substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title VI, § 632(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–157, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect October 1, 2000.''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 619(b) of Pub. L. 104–106 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1996.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective Oct. 1, 1984, see section 623(c) of Pub. L. 98–525, set out as a note under section 305a of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968 see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

MEMBERS ENTITLED TO SPECIAL PAY AS OF SEPTEMBER 30, 1984

Section 623(b)(3) of Pub. L. 98–525 provided that: ''A member of the uniformed services who, on September 30, 1984, was entitled to special pay under section 307 of title 37, United States Code [this section], as in effect on such date, may continue to be paid the special pay authorized by such section as though the amendments made by this subsection [amending this section] had not been made. However, a member may not be paid the special pay authorized by such section as in effect on September 30, 1984, and the special pay authorized by such section as amended by this section.''

## § 307a. Special pay: assignment incentive pay

(a) AUTHORITY.—The Secretary concerned may pay incentive pay under this section to a member of a uniformed service who performs service, while entitled to basic pay, in an assignment designated by the Secretary concerned. Incentive pay payable under this section may be paid on a monthly basis, in a lump sum, or in installments.

(b) WRITTEN AGREEMENT.—(1) The Secretary concerned may require a member performing service in an assignment designated under subsection (a) to enter into a written agreement with the Secretary in order to qualify for the payment of incentive pay on a monthly basis under this section. The written agreement shall specify the period for which the incentive pay will be paid to the member and, subject to subsection (c), the monthly rate of the incentive pay.

(2) The Secretary concerned shall require a member performing service in an assignment designated under subsection (a) to enter into a written agreement with the Secretary in order to qualify for the payment of incentive pay on a lump sum or installment basis under this section. The written agreement shall specify the period for which the incentive pay will be paid to the member and, subject to subsection (c), the amount of the lump sum, or each installment, of the incentive pay.

(c) MAXIMUM RATE OR AMOUNT.—(1) The maximum monthly rate of incentive pay payable to a member on a monthly basis under this section is $3,000.

(2) The amount of the lump sum payment of incentive pay payable to a member on a lump sum basis under this section may not exceed an amount equal to the product of—

(A) the maximum monthly rate authorized under paragraph (1) at the time of the written agreement of the member under subsection (b)(2); and

(B) the number of months in the period for which incentive pay will be paid pursuant to the agreement.

(3) The amount of each installment payment of incentive pay payable to a member on an installment basis under this section shall be the amount equal to—

(A) the product of (i) a monthly rate specified in the written agreement of the member under subsection (b)(2) (which monthly rate may not exceed the maximum monthly rate authorized under paragraph (1) at the time of the written agreement), and (ii) the number of months in the period for which incentive pay will be paid; divided by

(B) the number of installments over such period.

(4) If a member extends an assignment specified in an agreement with the Secretary under subsection (b), incentive pay for the period of the extension may be paid under this section on a monthly basis, in a lump sum, or in installments in accordance with this section.

(d) REPAYMENT.—A member who enters into an agreement under this section and receives incentive pay under the agreement in a lump sum or installments, but who fails to complete the period of service covered by the payment, whether voluntarily or because of misconduct, shall be subject to the repayment provisions of section 303a(e) of this title.

(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Incentive pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

(f) STATUS NOT AFFECTED BY TEMPORARY DUTY OR LEAVE.—The service of a member in an assignment referred to in subsection (a) shall not be considered discontinued during any period that the member is not performing service in the assignment by reason of—

(1) temporary duty performed by the member pursuant to orders; or

(2) absence of the member for authorized leave, other than leave authorized for a period ending upon the discharge of the member or the release of the member from active duty.

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2010.

(Added Pub. L. 107–314, div. A, title VI, §616(a)(1), Dec. 2, 2002, 116 Stat. 2569; amended Pub. L. 108–375, div. A, title VI, §§614(b), 617(a), (b), Oct. 28, 2004, 118 Stat. 1947, 1948; Pub. L. 109–163, div. A, title VI, §§624(b), 628, 687(b)(13), Jan. 6, 2006, 119 Stat. 3295, 3296, 3329; Pub. L. 109–364, div. A, title VI, §614(b), Oct. 17, 2006, 120 Stat. 2248; Pub. L. 110–417, [div. A], title VI, §614(b), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111–84, div. A, title VI, §615(2), Oct. 28, 2009, 123 Stat. 2354.)

AMENDMENTS

2009—Subsec. (g). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (g). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

2006—Subsec. (a). Pub. L. 109–163, §628(a)(1), struck out ''monthly'' before ''incentive pay'' and inserted at end ''Incentive pay payable under this section may be paid on a monthly basis, in a lump sum, or in installments.''

Subsec. (b). Pub. L. 109–163, §628(a)(2), designated existing provisions as par. (1), substituted ''the payment of incentive pay on a monthly basis'' for ''incentive pay'' in first sentence, and added par. (2).

Subsec. (c). Pub. L. 109–163, §628(b), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: ''The maximum monthly rate of incentive pay payable to a member under this section is $1,500.''

Subsec. (d). Pub. L. 109–163, §687(b)(13), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows:

''(1) A member who, pursuant to an agreement under subsection (b)(2), receives a lump sum or installment payment of incentive pay under this section and who fails to complete the total period of service or other conditions specified in the agreement voluntarily or because of misconduct, shall refund to the United States an amount equal to the percentage of incentive pay paid which is equal to the unexpired portion of the service divided by the total period of service. The Secretary concerned may waive repayment of an amount of incentive pay under this section, in whole or in part, if the Secretary determines that conditions and circumstances warrant.

''(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

''(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of the agreement does not discharge the member signing the agreement from a debt arising under paragraph (1).''

Pub. L. 109–163, §628(c), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109–163, §628(c)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–163, §628(c)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 109–163, §624(b), substituted ''December 31, 2007'' for ''December 31, 2006''.

Subsec. (g). Pub. L. 109–364 substituted ''December 31, 2008'' for ''December 31, 2007''.

Pub. L. 109–163, §628(c)(1), redesignated subsec. (f) as (g).

2004—Subsec. (b). Pub. L. 108–375, §617(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The period for which incentive pay will be provided under this section and the monthly rate of the incentive pay for a member shall be specified in a written agreement between the Secretary concerned and the member. Agreements entered into by the Secretary of a military department shall require the concurrence of the Secretary of Defense.''

Subsec. (e). Pub. L. 108–375, §617(b), substituted ''by reason of—'' and pars. (1) and (2) for ''by reason of temporary duty performed by the member pursuant to orders or absence of the member for authorized leave.''

Subsec. (f). Pub. L. 108–375, §614(b), substituted ''December 31, 2006'' for ''December 31, 2005''.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title VI, §617(c), Oct. 28, 2004, 118 Stat. 1949, provided that: ''Paragraph (2) of section 307a(e) of title 37, United States Code, as added by subsection (b), shall apply with respect to authorized leave occurring on or after the date of the enactment of this Act [Oct. 28, 2004].''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

PAYMENT OF ASSIGNMENT INCENTIVE PAY FOR RESERVE MEMBERS SERVING IN COMBAT ZONE FOR MORE THAN 22 MONTHS

Pub. L. 110–181, div. A, title VI, §624, Jan. 28, 2008, 122 Stat. 153, provided that:

''(a) PAYMENT.—The Secretary of a military department may pay assignment incentive pay under section 307a of title 37, United States Code, to a member of a reserve component under the jurisdiction of the Secretary for each month during the eligibility period of the member determined under subsection (b) during which the member served for any portion of the month in a combat zone associated with Operating [probably should be ''Operation''] Enduring Freedom or Operation Iraqi Freedom in excess of 22 months of qualifying service.

''(b) ELIGIBILITY PERIOD.—The eligibility period for a member extends from January 1, 2005, through the end of the active duty service of the member in a combat zone associated with Operating [probably should be ''Operation''] Enduring Freedom or Operation Iraqi Freedom if the service on active duty during the member's most recent period of mobilization to active duty began before January 19, 2007.

''(c) AMOUNT OF PAYMENT.—The monthly rate of incentive pay payable to a member under this section is $1,000.

''(d) QUALIFYING SERVICE.—For purposes of this section, qualifying service includes cumulative mobilized service on active duty under sections 12301(d), 12302, and 12304 of title 10, United States Code, during the period beginning on January 1, 2003, through the end of the member's active duty service during the member's most recent period of mobilization to active duty beginning before January 19, 2007.''

ANNUAL REPORT

Pub. L. 107–314, div. A, title VI, §616(b), Dec. 2, 2002, 116 Stat. 2570, provided that: ''Not later than February 28, 2004, and February 28, 2005, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the use of the authority provided under section 307a of title 37, United States Code, as added by subsection (a), including an assessment of the utility of that authority.''

## §308. Special pay: reenlistment bonus

(a)(1) The Secretary concerned may pay a bonus under paragraph (2) to a member of a uniformed service who—

(A) has completed at least 17 months of continuous active duty (other than for training) but not more than 20 years of active duty;

(B) is qualified in a military skill designated as critical by the Secretary of Defense, or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as service in the Navy; and

(C) reenlists or voluntarily extends the member's enlistment for a period of at least three years—

(i) in a regular component of the service concerned; or

(ii) in a reserve component of the service concerned, if the member is performing active Guard and Reserve duty (as defined in section 101(d)(6) of title 10).

(2) The bonus to be paid under paragraph (1) may not exceed the lesser of the following amounts:

(A) The amount equal to the product of—

(i) 15 times the monthly rate of basic pay to which the member was entitled at the time of the discharge or release of the member; and

(ii) the number of years (or the monthly fractions thereof) of the term of reenlistment or extension of enlistment.

(B) $90,000.

(3) Any portion of a term of reenlistment or extension of enlistment of a member that, when added to the total years of service of the member at the time of discharge or release, exceeds 24 years may not be used in computing a bonus under paragraph (2)(A).

(4) Notwithstanding paragraph (1)(B), a member who agrees to train and reenlist for service in a military skill which, at the time of that agreement, is designated as critical, may be paid the bonus approved for that skill, at the rate in effect at the time of agreement, upon completion of training and qualification in that skill, if otherwise qualified under this subsection and even if that skill is no longer designated as critical at the time the member becomes eligible for payment of the bonus.

(5) The Secretary of Defense may waive the eligibility requirement in paragraph (1)(B) in the case of a reenlistment or voluntary extension of enlistment by a member of the armed forces that is entered into as described in this subsection while the member is serving on active duty in Afghanistan, Iraq, or Kuwait in support of Operation Enduring Freedom or Operation Iraqi Freedom.

(b) Bonus payments authorized under this section may be paid in either a lump sum or in installments. If the bonus is paid in installments, the initial payment shall be not less than 50 percent of the total bonus amount.

(c) For the purpose of computing the reenlistment bonus in the case of an officer with prior enlisted service who may be entitled to a bonus under subsection (a), the monthly basic pay of the grade in which he is enlisted, computed in accordance with his years of service computed under section 205 of this title, shall be used instead of the monthly basic pay to which he was entitled at the time of his release from active duty as an officer.

(d) A member who does not complete the term of enlistment for which a bonus was paid to the member under this section, or a member who is not technically qualified in the skill for which a bonus was paid to the member under this section, shall be subject to the repayment provisions of section 303a(e) of this title.

(e) For the purposes of determining the eligibility of a member for a bonus under this section and of computing the amount of that bonus—

(1) any period of enlistment (including any extension of an enlistment) (A) that is incurred by the member for the purpose of continuing to qualify for continuous submarine duty incentive pay under section 301c of this title, and (B) for which no bonus is otherwise payable; or

(2) any unserved period of two years or less of an extension of an enlistment for which no bonus has been paid or for which no bonus is otherwise payable under this section,

may, under regulations prescribed by the Secretary concerned, be considered as part of an immediately subsequent term of reenlistment (or as part of an immediately subsequent voluntary extension of an enlistment).

(f) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction, and by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(g) No bonus shall be paid under this section with respect to any reenlistment, or voluntary extension of an active-duty enlistment, in the armed forces entered into after December 31, 2010.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 467; Pub. L. 89–132, § 3, Aug. 21, 1965, 79 Stat. 547; Pub. L. 90–623, § 3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 93–277, § 2(1), May 10, 1974, 88 Stat. 119; Pub. L. 95–57, § 1, June 29, 1977, 91 Stat. 253; Pub. L. 95–485, title VIII, § 802(a)(1), (b), Oct. 20, 1978, 92 Stat. 1619; Pub. L. 96–342, title VIII, § 804(a), Sept. 8, 1980, 94 Stat. 1092; Pub. L. 96–579, § 3(f), Dec. 23, 1980, 94 Stat. 3364; Pub. L. 97–60, title I, § 117(a), Oct. 14, 1981, 95 Stat. 996; Pub. L. 97–276, title I, § 131, Oct. 2, 1982, 96 Stat. 1197; Pub. L. 97–377, title I, § 101(c) [title VII, § 798], Dec. 21, 1982, 96 Stat. 1833, 1865; Pub. L. 98–14, § 1, Mar. 30, 1983, 97 Stat. 55; Pub. L. 98–525, title VI, § 621, Oct. 19, 1984, 98 Stat. 2540; Pub. L. 99–145, title VI, § 631(a), Nov. 8, 1985, 99 Stat. 643; Pub. L. 100–180, div. A, title VI, §§ 625(a), 626(a), Dec. 4, 1987, 101 Stat. 1104; Pub. L. 101–189, div. A, title VI, § 611(a), Nov. 29, 1989, 103 Stat. 1445; Pub. L. 101–510, div. A, title VI, § 615(a), Nov. 5, 1990, 104 Stat. 1578; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title VI, § 612(a), Oct. 23, 1992, 106 Stat. 2421; Pub. L. 103–160, div. A, title VI, § 613(b), Nov. 30, 1993, 107 Stat. 1681; Pub. L. 103–337, div. A, title VI, § 613(b), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title VI, § 613(b), Feb. 10, 1996, 110 Stat. 359; Pub. L. 104–201, div. A, title VI, § 613(b), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105–85, div. A, title VI, § 613(b), Nov. 18, 1997, 111 Stat. 1786; Pub. L. 105–261, div. A, title VI, §§ 613(b), 618, 619,

Oct. 17, 1998, 112 Stat. 2039, 2042; Pub. L. 106–65, div. A, title VI, §§613(b), 618(a), (b), Oct. 5, 1999, 113 Stat. 650, 652; Pub. L. 106–398, §1 [[div. A], title VI, §623(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–152; Pub. L. 107–107, div. A, title VI, §614(b), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, §614(b), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 108–136, div. A, title VI, §§614(b), 626(a), Nov. 24, 2003, 117 Stat. 1501, 1507; Pub. L. 108–375, div. A, title VI, §§614(c), 618(a), Oct. 28, 2004, 118 Stat. 1948, 1949; Pub. L. 109–163, div. A, title VI, §§624(c), 629(a)–(c), 687(b)(14), Jan. 6, 2006, 119 Stat. 3295, 3297, 3329; Pub. L. 109–364, div. A, title VI, §614(c), Oct. 17, 2006, 120 Stat. 2248; Pub. L. 110–181, div. A, title VI, §614(b), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title V, §531(b), title VI, §614(c), Oct. 14, 2008, 122 Stat. 4449, 4485; Pub. L. 111–84, div. A, title VI, §615(3), title X, §1073(b), Oct. 28, 2009, 123 Stat. 2354, 2474.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 308(a) ..... | 37:239(a). | Oct. 12, 1949, ch. 681, §208; added July 16, 1954, ch. 535, §2, 68 Stat. 488; July 25, 1961, Pub. L. 87–103, §1 (as applicable to §208), 75 Stat. 219. |
| | 37:239(e). | |
| 308(b) ..... | 37:239(b). | |
| 308(c) ..... | 37:239(c). | |
| 308(d) ..... | 37:239(d). | |
| 308(e) ..... | 37:239(f). | |
| 308(f) ..... | 37:239(g). | |

In subsection (a), the words ''reenlists . . . after . . . compulsory or voluntary active duty or who voluntarily extends his enlistment for at least two years'' are substituted for the words ''reenlists . . . after . . . active duty'' and section 239(e) of existing title 37. The words ''(other than for training)'' are inserted, since the source statute has been consistently interpreted to exclude that kind of duty. The words ''or release'' are inserted in column 1 of the table and in footnotes 2, 4, and 5 to conform to the introductory language preceding the tables.

In subsection (b), the words ''a total of'' are omitted as surplusage.

AMENDMENTS

2009—Subsec. (a)(2)(A)(ii). Pub. L. 111–84, §1073(b), struck out comma before period at end.

Subsec. (g). Pub. L. 111–84, §615(3), substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (a)(2)(A)(ii). Pub. L. 110–417, §531(b), struck out ''not to exceed six'' after ''extension of enlistment,''.

Subsec. (g). Pub. L. 110–417, §614(c), substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (a)(1)(A). Pub. L. 109–163, §629(a)(1), substituted ''20 years of active duty'' for ''16 years of active duty''.

Subsec. (a)(1)(C), (D). Pub. L. 109–163, §629(c), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: ''is not receiving special pay under section 312a of this title; and''.

Subsec. (a)(2)(B). Pub. L. 109–163, §629(b), substituted ''$90,000'' for ''$60,000''.

Subsec. (a)(3). Pub. L. 109–163, §629(a)(2), substituted ''24 years'' for ''18 years''.

Subsec. (d). Pub. L. 109–163, §687(b)(14), amended subsec. (d) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when member is not technically qualified in skill for which bonus was paid or fails to complete term of enlistment for which bonus was paid.

Subsec. (g). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, §624(c), substituted ''December 31, 2006'' for ''December 31, 2005''.

2004—Subsec. (a)(1). Pub. L. 108–375, §618(a)(1)(D), struck out concluding provisions which read as follows: ''may be paid a bonus as provided in paragraph (2).''

Pub. L. 108–375, §618(a)(1)(A), in introductory provisions, substituted ''The Secretary concerned may pay a bonus under paragraph (2) to a member'' for ''A member''.

Subsec. (a)(1)(A). Pub. L. 108–375, §618(a)(1)(B), substituted ''16 years'' for ''fourteen years''.

Subsec. (a)(1)(D). Pub. L. 108–375, §618(a)(1)(C), which directed that a period be substituted for the semicolon at end, could not be executed because a period already appeared at end.

Subsec. (a)(3). Pub. L. 108–375, §618(a)(2), substituted ''18 years'' for ''16 years''.

Subsec. (g). Pub. L. 108–375, §614(c), substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (a)(5). Pub. L. 108–136, §626(a), added par. (5).

Subsec. (g). Pub. L. 108–136, §614(b), substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsecs. (a)(1)(B), (d)(2), (f). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation'' wherever appearing.

Subsec. (g). Pub. L. 107–314 substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (g). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

2000—Subsec. (g). Pub. L. 106–398 substituted ''December 31, 2001'' for ''December 31, 2000''.

1999—Subsec. (a)(1)(A). Pub. L. 106–65, §618(a), substituted ''17 months'' for ''twenty-one months''.

Subsec. (a)(2)(A)(i). Pub. L. 106–65, §618(b)(1), substituted ''15'' for ''ten''.

Subsec. (a)(2)(B). Pub. L. 106–65, §618(b)(2), substituted ''$60,000'' for ''$45,000''.

Subsec. (g). Pub. L. 106–65, §613(b), substituted ''December 31, 2000'' for ''December 31, 1999''.

1998—Subsec. (a)(1)(D). Pub. L. 105–261, §618, amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''reenlists or voluntarily extends his enlistment in a regular component of the service concerned for a period of at least three years;''.

Subsec. (b). Pub. L. 105–261, §619, designated par. (1) as entire subsec. and struck out par. (2) which read as follows: ''Of the bonuses paid under this section to members of a uniformed service during a fiscal year, not more than 10 percent may exceed $20,000.''

Subsec. (g). Pub. L. 105–261, §613(b), substituted ''December 31, 1999'' for ''September 30, 1999''.

1997—Subsec. (g). Pub. L. 105–85 substituted ''September 30, 1999'' for ''September 30, 1998''.

1996—Subsec. (g). Pub. L. 104–201 substituted ''September 30, 1998'' for ''September 30, 1997''.

Pub. L. 104–106 substituted ''September 30, 1997'' for ''September 30, 1996''.

1994—Subsec. (g). Pub. L. 103–337 substituted ''September 30, 1996'' for ''September 30, 1995''.

1993—Subsec. (g). Pub. L. 103–160 substituted ''September 30, 1995'' for ''September 30, 1993''.

1992—Subsec. (g). Pub. L. 102–484 substituted ''September 30, 1993'' for ''September 30, 1992''.

1991—Subsec. (c). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

1990—Subsec. (d). Pub. L. 101–510 designated existing provisions as par. (1) and added par. (2).

1989—Subsec. (a)(1). Pub. L. 101–189, §611(a)(1), substituted ''may be paid a bonus as provided in paragraph (2)'' for ''may be paid a bonus, not to exceed six months of the basic pay to which he was entitled at the time of his discharge or release, multiplied by the number of years, or the monthly fractions thereof, of additional obligated service, not to exceed six years, or $30,000,

whichever is the lesser amount. Obligated service in excess of sixteen years will not be used for bonus computation''.

Subsec. (a)(2), (3). Pub. L. 101–189, § 611(a)(3), added pars. (2) and (3). Former par. (2) redesignated (4).

Subsec. (a)(4). Pub. L. 101–189, § 611(a)(2), redesignated former par. (2) as (4) and struck out ''of this subsection'' after ''paragraph (1)(B)''.

1987—Subsec. (b)(1). Pub. L. 100–180, § 625(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Not less than 75 percent of the amount of a bonus under this section shall be paid in a lump sum at the beginning of the period for which the bonus is paid, with any remaining amount paid in equal annual installments.''

Subsec. (g). Pub. L. 100–180, § 626(a), substituted ''September 30, 1992'' for ''September 30, 1987''.

1985—Subsec. (b)(1). Pub. L. 99–145 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Bonus payments authorized under this section may be paid in either a lump sum or in installments.''

1984—Subsec. (a)(1). Pub. L. 98–525, § 621(b)(1), substituted ''$30,000'' for ''$20,000'' in provisions following subpar. (D).

Subsec. (b). Pub. L. 98–525, § 621(b)(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Pub. L. 98–525, § 621(a), substituted ''September 30, 1987'' for ''September 30, 1984''.

1983—Subsec. (g). Pub. L. 98–14 substituted ''September 30, 1984'' for ''March 31, 1983''.

1982—Subsec. (g). Pub. L. 97–377 substituted ''March 31, 1983'' for ''December 17, 1982''.

Pub. L. 97–276 substituted ''December 17, 1982'' for ''September 30, 1982''. Notwithstanding directory language that amendment be made to section 308(g) of ''title 35, United States Code'', amendment was executed to this section as the probable intent of Congress.

1981—Subsec. (e). Pub. L. 97–60 inserted provision that any unserved period of two years or less of an extension of an enlistment for which no bonus has been paid or for which no bonus is otherwise payable under this section may be considered as part of an immediately subsequent term of reenlistment (or as part of an immediately subsequent voluntary extension of an enlistment) and substituted ''Secretary concerned'' for ''Secretary of the Navy'' as authority authorized to prescribe regulations.

1980—Subsec. (a)(1). Pub. L. 96–342, § 804(a)(1), substituted ''fourteen years'' for ''ten years'' in subpar. (A) and, in provisions following subpar. (D), substituted ''$20,000'' for ''$15,000'' and ''sixteen years'' for ''twelve years''.

Subsec. (e). Pub. L. 96–579 added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 96–579 redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 96–342, § 804(a)(2), substituted ''September 30, 1982'' for ''September 30, 1980''.

Subsec. (g). Pub. L. 96–579 redesignated former subsec. (f) as (g).

1978—Subsec. (a). Pub. L. 95–485, § 802(a)(1), designated existing provision as par. (1) and existing pars. (1) to (4) thereof as subpars. (A) to (D), in subpar. (B) as so redesignated, substituted ''qualified in a military skill designated as critical'' for ''designated as having a critical military skill'', and added par. (2).

Subsec. (f). Pub. L. 95–485, § 802(b), substituted ''September 30, 1980'' for ''September 30, 1978''.

1977—Subsec. (d). Pub. L. 95–57, § 1(a), substituted ''or a member who is not technically qualified in the skill for which a bonus was paid to him under this section (other than a member who is not qualified because of injury, illness, or other impairment not the result of his own misconduct) shall refund that percentage of the bonus, that the unexpired part of his additional obligated service is of the total reenlistment or extension period for which the bonus was paid'' for ''shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid''.

Subsec. (f). Pub. L. 95–57, § 1(b), substituted ''September 30, 1978'' for ''June 30, 1977''.

1974—Pub. L. 93–277 amended section generally.

1968—Subsecs. (e), (g). Pub. L. 90–623 substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

1965—Subsec. (g). Pub. L. 89–132 added subsec. (g).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title VI, § 618(g), Oct. 28, 2004, 118 Stat. 1950, provided that: ''The amendment made by subsection (a)(2) [amending this section] shall apply only with respect to the computation of a bonus under section 308(a)(2)(A) of title 37, United States Code, made on or after the date of the enactment of this Act [Oct. 28, 2004].''

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title VI, § 626(d), Nov. 24, 2003, 117 Stat. 1508, provided that: ''The amendments made by this section [amending this section and sections 308b and 308h of this title] shall take effect as of March 18, 2003, and apply with respect to reenlistments or the voluntary extension of enlistments that are entered into on or after that date.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, § 618(c), Oct. 5, 1999, 113 Stat. 652, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to reenlistments and extensions of enlistments taking effect on or after that date.''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 613(h)(1) of Pub. L. 103–160 provided that: ''The amendments made by subsections (b) and (c) [amending this section and section 308a of this title] shall take effect as of September 30, 1993, and shall apply with respect to an enlistment, reenlistment, or extension of an enlistment described in section 308 or 308a of title 37, United States Code, occurring on or after that date.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 615(b) of Pub. L. 101–510 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to any bonus paid under section 308 of title 37, United States Code, to a person in connection with the reenlistment or extension of the term of enlistment of the person in the Armed Forces on or after the date of the enactment of this Act [Nov. 5, 1990].''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 611(b) of Pub. L. 101–189 provided that: ''The amendments made by this section [amending this section] shall apply with respect to reenlistment and extension of enlistment agreements entered into under section 308(a) of title 37, United States Code, after September 30, 1989.''

EFFECTIVE DATE OF 1987 AMENDMENT

Section 625(b) of Pub. L. 100–180 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to bonuses paid for reenlistment or extension of enlistment agreements entered into after September 30, 1987.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 631(b) of Pub. L. 99–145 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to bonuses paid for reenlistments or extensions of enlistment effective after September 30, 1986.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 117(d) of Pub. L. 97–60 provided that: ''The amendments made by this section [enacting section 308f of this title and amending this section and section 308a of this title] shall apply to enlistments and reenlistments after the date of enactment of this Act [Oct. 14, 1981].''

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 804(c) of Pub. L. 96–342 provided that: ''The amendments made by this section [amending this section and section 308a of this title] shall only apply to enlistments, reenlistments, and extensions of enlistments made after September 30, 1980.''

Amendment by Pub. L. 96–579 effective Jan. 1, 1981, see section 3(g) of Pub. L. 96–579, set out as an Effective Date note under section 301c of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 802(a)(2) of Pub. L. 95–485 provided that: ''The amendments made by paragraph (12) [amending this section] shall take effect on October 1, 1978.''

EFFECTIVE DATE OF 1977 AMENDMENT

Section 3 of Pub. L. 95–57 provided that: ''The amendments made by this Act [amending this section and section 308a of this title] shall become effective on July 1, 1977.''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 4 of Pub. L. 93–277 provided that: ''The amendments made by this Act [amending this section and section 308a of this title and enacting provisions set out below] become effective on the first day of the month following the date of enactment [May 10, 1974].''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–132 effective Sept. 1, 1965, see section 10 of Pub. L. 89–132, set out as a note under section 203 of this title.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

COVERAGE OF PERIOD OF LAPSED AUTHORITY

For provisions relating to coverage of period of lapsed authority from Oct. 1, 1992, to Oct. 23, 1992, for payment of bonuses or other special pay under this section, see section 612(j)(2) of Pub. L. 102–484, set out as a note under section 301b of this title.

Section 626(c) of Pub. L. 100–180 provided that:

''(1) The Secretary concerned, in the case of any person who during the period beginning on October 1, 1987, and ending on the date of the enactment of this Act [Dec. 4, 1987] would have qualified for an agreement with the Secretary described in paragraph (2) but for the fact that the authority for the payment of bonuses provided by that section had lapsed, shall pay to that person a bonus under the terms of the appropriate section specified in that paragraph (and related regulations) as in effect on September 30, 1987.

''(2) An agreement referred to in paragraph (1) is an agreement with the Secretary for the payment of a bonus under section 308, 308a, 308b, 308c, 308e, 308f, 308g, 308h, or 308i of title 37, United States Code.''

COST REDUCTIONS FOR FISCAL YEAR 1987; SELECTIVE REIMBURSEMENT BONUS

Pub. L. 99–661, div. A, title VI, § 663(a), Nov. 14, 1986, 100 Stat. 3894, provided that: ''During fiscal year 1987, the Secretary concerned may not pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.''.

OPTIONAL CHOICE OF REENLISTMENT BONUS

Section 3 of Pub. L. 93–277 provided that: ''Notwithstanding section 308 of title 37, United States Code, as amended by this Act, a member of a uniformed service on active duty on the effective date of this Act, who would have been eligible, at the end of his current or subsequent enlistment, for the reenlistment bonus prescribed in section 308(a) or (d) of that title, as it existed on the day before the effective date of this Act, shall continue to be eligible for the reenlistment bonus under that section as it existed on the day before the effective date of this act. If a member is also eligible for the reenlistment bonus prescribed in that section as amended by this Act, he may elect to receive either one of those reenlistment bonuses. However, a member's eligibility under section 308(a) or (d) of that title, as it existed on the day before the effective date of this Act, terminates when he has received a total of $2,000 in reenlistment bonus payments, received under either section 308(a) or (d) of that title as it existed on the day before the effective date of this Act, or under section 308 of that title, as amended by this Act, or from a combination of both.''

## [§ 308a. Repealed. Pub. L. 106–398, § 1 [[div. A], title VI, § 624(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–153]

Section, added Pub. L. 92–129, title II, § 203(a), Sept. 28, 1971, 85 Stat. 358; amended Pub. L. 93–64, title II, § 204, July 9, 1973, 87 Stat. 149; Pub. L. 93–277, § 2(2), May 10, 1974, 88 Stat. 120; Pub. L. 95–57, § 2, June 29, 1977, 91 Stat. 253; Pub. L. 95–485, title VIII, § 802(b), Oct. 20, 1978, 92 Stat. 1619; Pub. L. 96–342, title VIII, § 804(b), Sept. 8, 1980, 94 Stat. 1092; Pub. L. 97–60, title I, § 117(b), Oct. 14, 1981, 95 Stat. 996; Pub. L. 97–276, title I, § 131, Oct. 2, 1982, 96 Stat. 1197; Pub. L. 97–377, title I, § 101(c) [title VII, § 798], Dec. 21, 1982, 96 Stat. 1833, 1865; Pub. L. 98–14, § 1, Mar. 30, 1983, 97 Stat. 55; Pub. L. 98–525, title VI, § 621(a), Oct. 19, 1984, 98 Stat. 2540; Pub. L. 100–180, div. A, title VI, § 626(a), Dec. 4, 1987, 101 Stat. 1104; Pub. L. 101–189, div. A, title VI, § 612(a), Nov. 29, 1989, 103 Stat. 1445; Pub. L. 102–484, div. A, title VI, § 612(b), Oct. 23, 1992, 106 Stat. 2421; Pub. L. 103–160, div. A, title VI, § 613(c), Nov. 30, 1993, 107 Stat. 1681; Pub. L. 103–337, div. A, title VI, § 613(c), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title VI, § 613(c), Feb. 10, 1996, 110 Stat. 359; Pub. L. 104–201, div. A, title VI, § 613(c), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105–85, div. A, title VI, § 613(c), Nov. 18, 1997, 111 Stat. 1786; Pub. L. 105–261, div. A, title VI, § 613(c), Oct. 17, 1998, 112 Stat. 2039; Pub. L. 106–65, div. A, title VI, §§ 613(c), 619(a)–(c), Oct. 5, 1999, 113 Stat. 650, 652, 653, related to enlistment bonuses.

EFFECTIVE DATE OF REPEAL

Pub. L. 106–398, § 1 [[div. A], title VI, § 624(c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–153, provided that: ''The amendments made by subsection (b) [repealing this section and section 308f of this title] shall take effect on October 1, 2000. The repeal of sections 308a and 308f of title 37, United States Code, by such subsection shall not affect the validity or terms of any bonus provided under such sections for enlistments in the Armed Forces made before that date.''

### § 308b. Special pay: reenlistment bonus for members of the Selected Reserve

(a) AUTHORITY AND ELIGIBILITY REQUIREMENTS.—The Secretary concerned may pay a bonus under subsection (b) to an enlisted member of a reserve component who—

(1) has completed not more than 20 years of total military service; and

(2) reenlists or voluntarily extends an enlistment for a period of at least three years in a designated military skill, or in a designated unit, as determined by the Secretary concerned, in the Selected Reserve of the Ready Reserve of an armed force.

(b) BONUS AMOUNTS; PAYMENT.—(1) The amount of a bonus under this section may not exceed $15,000.

(2) Bonus payments authorized under this section may be paid in either a lump sum or in installments. If the bonus is paid in installments, the initial payment shall be not less than 50 percent of the total bonus amount. The Secretary concerned shall prescribe the amount of each subsequent installment payment and the schedule for making the installment payments.

(3) Any portion of a term of reenlistment or extension of enlistment of a member that, when added to the total years of service of the member at the time of discharge or release, exceeds 24 years may not be used in computing the total bonus amount under paragraph (1).

(c) WAIVER OF CONDITION ON ELIGIBILITY.—In the case of a reenlistment or voluntary extension of enlistment by a member of the armed forces that is entered into as described in subsection (a) while the member is serving on active duty in Afghanistan, Iraq, or Kuwait in support of Operation Enduring Freedom or Operation Iraqi Freedom, the Secretary concerned may waive so much of subsection (a)(2) as requires that the skill or unit in which the member reenlists or extends an enlistment be a designated skill or designated unit determined by the Secretary concerned.

(d) PAYMENT TO MOBILIZED MEMBERS.—A member entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.

(e) REPAYMENT.—A member who does not complete the term of enlistment in the element of the Selected Reserve for which the bonus was paid to the member under this section shall be subject to the repayment provisions of section 303a(e) of this title.

(f) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Homeland Security for the Coast Guard when it is not operating as a service in the Navy.

(g) TERMINATION OF AUTHORITY.—No bonus may be paid under this section to any enlisted member who, after December 31, 2010, reenlists or voluntarily extends his enlistment in a reserve component.

(Added Pub. L. 95–79, title IV, § 403(a)(1), July 30, 1977, 91 Stat. 330; amended Pub. L. 95–485, title IV, § 403, Oct. 20, 1978, 92 Stat. 1614; Pub. L. 96–342, title VIII, § 805(b), Sept. 8, 1980, 94 Stat. 1095; Pub. L. 97–295, § 3(2), Oct. 12, 1982, 96 Stat. 1303; Pub. L. 99–145, title VI, § 643(a), Nov. 8, 1985, 99 Stat. 652; Pub. L. 100–180, div. A, title VI, § 626(b), Dec. 4, 1987, 101 Stat. 1104; Pub. L. 101–189, div. A, title VI, §§ 613, 652(b)(1), Nov. 29, 1989, 103 Stat. 1446, 1461; Pub. L. 101–510, div. A, title XIII, § 1322(c)(4), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102–484, div. A, title VI, § 612(d), Oct. 23, 1992, 106 Stat. 2421; Pub. L. 103–160, div. A, title VI, § 612(a), Nov. 30, 1993, 107 Stat. 1680; Pub. L. 103–337, div. A, title VI, § 611(a), Oct. 5, 1994, 108 Stat. 2782; Pub. L. 104–106, div. A, title VI, § 611(a), Feb. 10, 1996, 110 Stat. 359; Pub. L. 104–201, div. A, title VI, § 611(b), Sept. 23, 1996, 110 Stat. 2543; Pub. L. 105–85, div. A, title VI, §§ 611(b), 621, Nov. 18, 1997, 111 Stat. 1785, 1790; Pub. L. 105–261, div. A, title VI, § 611(b), Oct. 17, 1998, 112 Stat. 2038; Pub. L. 106–65, div. A, title VI, § 611(b), Oct. 5, 1999, 113 Stat. 649; Pub. L. 106–398, § 1 [[div. A], title VI, § 621(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151; Pub. L. 107–107, div. A, title VI, § 611(b), Dec. 28, 2001, 115 Stat. 1135; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, § 611(a), Dec. 2, 2002, 116 Stat. 2567; Pub. L. 108–136, div. A, title VI, §§ 611(a), 617, 626(b), Nov. 24, 2003, 117 Stat. 1500, 1503, 1507; Pub. L. 108–375, div. A, title VI, §§ 611(a), 618(b), Oct. 28, 2004, 118 Stat. 1946, 1949; Pub. L. 109–163, div. A, title VI, §§ 621(a), 630, 687(b)(15), Jan. 6, 2006, 119 Stat. 3294, 3297, 3330; Pub. L. 109–364, div. A, title VI, § 611(a), title X, § 1071(e)(7), Oct. 17, 2006, 120 Stat. 2247, 2401; Pub. L. 110–181, div. A, title VI, §§ 611(a), 619(a)–(c), Jan. 28, 2008, 122 Stat. 148, 151; Pub. L. 110–417, [div. A], title VI, § 611(a), Oct. 14, 2008, 122 Stat. 4484; Pub. L. 111–84, div. A, title VI, § 611(1), Oct. 28, 2009, 123 Stat. 2352.)

AMENDMENTS

2009—Subsec. (g). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (a)(2). Pub. L. 110–181, § 619(a), substituted ''an enlistment for a period of at least three years'' for ''his enlistment for a period of three years or for a period of six years''.

Subsec. (b)(1). Pub. L. 110–181, § 619(b), substituted ''may not exceed $15,000.'' for ''may not exceed—

''(A) $15,000, in the case of a member who reenlists or extends an enlistment for a period of six years;

''(B) $7,500, in the case of a member who, having never received a bonus under this section, reenlists or extends an enlistment for a period of three years; and

''(C) $6,000, in the case of a member who, having received a bonus under this section for a previous three-year reenlistment or extension of an enlistment, reenlists or extends the enlistment for an additional period of three years.''

Subsec. (c). Pub. L. 110–181, § 619(c), substituted ''Waiver of Condition on Eligibility'' for ''Condition on Eligibility'' in heading, struck out par. (2) designation

before ''In the case'' and ''paragraph (1)(B) or'' after ''may waive so much of'', and struck out par. (1) which read as follows:

''(1) To be eligible for a second bonus under this section in the amount specified in subsection (b)(1)(C), a member must—

''(A) enter into the subsequent reenlistment or extension of an enlistment for a period of three years not later than the date on which the enlistment or extension for which the first bonus was paid would expire; and

''(B) still satisfy the designated skill or unit requirements required under subsection (a)(2).''

Subsec. (g). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181, § 611(a), substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (a)(1). Pub. L. 109–163, § 630(a), substituted ''20 years of total military service'' for ''16 years of total military service''.

Subsec. (b)(3). Pub. L. 109–163, § 630(b), added par. (3).

Subsec. (e). Pub. L. 109–163, § 687(b)(15), as amended by Pub. L. 109–364, § 1071(e)(7), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: ''A member who receives a bonus under this section and who fails, during the period for which the bonus was paid, to serve satisfactorily in the element of the Selected Reserve of the Ready Reserve with respect to which the bonus was paid shall refund to the United States an amount that bears the same ratio to the amount of the bonus paid to the member as the period that the member failed to serve satisfactorily bears to the total period for which the bonus was paid.''

Subsec. (g). Pub. L. 109–364, § 611(a), substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, § 621(a), substituted ''December 31, 2006'' for ''December 31, 2005''.

2004—Subsec. (a). Pub. L. 108–375, § 618(b)(1)(D), struck out concluding provisions which read as follows: ''may be paid a bonus as provided in subsection (b).''

Pub. L. 108–375, § 618(b)(1)(A), in introductory provisions, substituted ''The Secretary concerned may pay a bonus under subsection (b) to an enlisted member'' for ''An enlisted member''.

Subsec. (a)(1). Pub. L. 108–375, § 618(b)(1)(B), substituted ''not more than 16 years'' for ''less than 14 years''.

Subsec. (a)(2). Pub. L. 108–375, § 618(b)(1)(C), substituted period for semicolon at end.

Subsec. (b)(1)(A). Pub. L. 108–375, § 618(b)(2)(A), substituted ''$15,000'' for ''$5,000''.

Subsec. (b)(1)(B). Pub. L. 108–375, § 618(b)(2)(B), substituted ''$7,500'' for ''$2,500''.

Subsec. (b)(1)(C). Pub. L. 108–375, § 618(b)(2)(C), substituted ''$6,000'' for ''$2,000''.

Subsec. (b)(2). Pub. L. 108–375, § 618(b)(3), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Any bonus payable under this section shall be disbursed in one initial payment of an amount not to exceed one-half of the total amount of the bonus and subsequent periodic partial payments of the balance of the bonus. The Secretary concerned shall prescribe the amount of each partial payment and the schedule for making the partial payments.''

Subsec. (c). Pub. L. 108–375, § 618(b)(4)(A), struck out ''; LIMITATION ON NUMBER OF BONUSES'' after ''ELIGIBILITY'' in heading.

Subsec. (c)(2), (3). Pub. L. 108–375, § 618(b)(4)(B), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''A member may not be paid more than one six-year bonus or two three-year bonuses under this section.''

Subsec. (g). Pub. L. 108–375, § 611(a), substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (c)(3). Pub. L. 108–136, § 626(b), added par. (3).

Subsecs. (d), (e). Pub. L. 108–136, § 617, added subsec. (d) and redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 108–136, § 617(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 108–136, § 611(a), substituted ''December 31, 2004'' for ''December 31, 2003''.

Subsec. (g). Pub. L. 108–136, § 617(1), redesignated subsec. (f) as (g).

2002—Subsec. (e). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (f). Pub. L. 107–314 substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (f). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

2000—Subsec. (f). Pub. L. 106–398 substituted ''December 31, 2001'' for ''December 31, 2000''.

1999—Subsec. (f). Pub. L. 106–65 substituted ''December 31, 2000'' for ''December 31, 1999''.

1998—Subsec. (f). Pub. L. 105–261 substituted ''December 31, 1999'' for ''September 30, 1999''.

1997—Subsec. (a). Pub. L. 105–85, § 621(e)(1), inserted heading.

Subsec. (a)(1). Pub. L. 105–85, § 621(a), substituted ''14 years'' for ''ten years''.

Subsec. (b). Pub. L. 105–85, § 621(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The bonus to be paid under subsection (a) shall be—

''(1) an initial payment of—

''(A) an amount not to exceed $1,250, in the case of a member who reenlists or voluntarily extends his enlistment for a period of three years; or

''(B) an amount not to exceed $2,500, in the case of a member who reenlists or voluntarily extends his enlistment for a period of six years; and

''(2) a subsequent payment of not to exceed $416.66 upon the completion of each year of the period of such reenlistment or extension of enlistment during which such member has satisfactorily participated in training with his unit.''

Subsec. (c). Pub. L. 105–85, § 621(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''No member shall be paid more than one bonus under this section.''

Subsec. (d). Pub. L. 105–85, § 621(d), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''A member who fails to participate satisfactorily in training with his unit during a term of enlistment for which a bonus is being paid to him under this section shall refund an amount equal to the amount by which the amount of such bonus exceeds the product of—

''(1) the number of months during that term of enlistment during which such member participated satisfactorily in training with his unit; and

''(2) $69.44.''

Subsec. (e). Pub. L. 105–85, § 621(e)(2), inserted heading.

Subsec. (f). Pub. L. 105–85, § 621(e)(3), inserted heading.

Pub. L. 105–85, § 611(b), substituted ''September 30, 1999'' for ''September 30, 1998''.

1996—Subsec. (f). Pub. L. 104–201 substituted ''September 30, 1998'' for ''September 30, 1997''.

Pub. L. 104–106 substituted ''September 30, 1997'' for ''September 30, 1996''.

1994—Subsec. (f). Pub. L. 103–337 substituted ''September 30, 1996'' for ''September 30, 1995''.

1993—Subsec. (f). Pub. L. 103–160 substituted ''September 30, 1995'' for ''September 30, 1993''.

1992—Subsec. (f). Pub. L. 102–484 substituted ''September 30, 1993'' for ''September 30, 1992''.

1990—Subsecs. (e) to (g). Pub. L. 101–510 redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e) which read as follows: ''The Secretary of defense shall submit a report to the Congress every three months listing the units of the Selected Reserve of the Ready Reserve which have been designated by him for purposes of subsection (a)(3) and stating the number of members of the Selected Reserve of the Ready Reserve who at the time of such report are serving a term of enlistment for which a bonus is being paid under this section.''

1989—Subsec. (e). Pub. L. 101–189, § 652(b)(1), struck out at end ''The first such report shall be submitted not later than December 31, 1977.''

Subsec. (g). Pub. L. 101–189, § 613, substituted ''September 30, 1992'' for ''September 30, 1990''.

1987—Subsec. (g). Pub. L. 100–180 substituted ''September 30, 1990'' for ''September 30, 1987''.

1985—Subsec. (b)(1). Pub. L. 99–145, § 643(a)(1)(A), substituted ''$1,250'' for ''$450'' in subpar. (A) and ''$2,500'' for ''$900'' in subpar. (B).

Subsec. (b)(2). Pub. L. 99–145, § 643(a)(1)(B), substituted ''$416.66'' for ''$150''.

Subsec. (d)(2). Pub. L. 99–145, § 643(a)(2), substituted ''$69.44'' for ''$25''.

Subsec. (g). Pub. L. 99–145, § 643(a)(3), substituted ''September 30, 1987'' for ''September 30, 1985''.

1982—Subsec. (a)(1). Pub. L. 97–295 substituted ''service'' for ''services''.

1980—Subsec. (g). Pub. L. 96–342 substituted ''September 30, 1985'' for ''September 30, 1980''.

1978—Subsec. (a). Pub. L. 95–485, § 403(a), substituted provision requiring that for an enlisted member of a reserve component to be eligible for the bonus provided in subsec. (b) he has completed less than 10 years of total military services for provision requiring that the enlisted member had initially enlisted in a reserve component, other than a reserve component under the delayed enlistment program for the active forces, and that he had completed less than 10 years of service as a member of a reserve component.

Subsec. (b). Pub. L. 95–485, § 403(b), inserted ''an amount not to exceed'' before ''$450'', ''$900'', and ''$150'', respectively.

Subsec. (g). Pub. L. 95–485, § 403(c), substituted ''September 30, 1980'' for ''September 30, 1978''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 611(a) of Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

Pub. L. 110–181, div. A, title VI, § 619(d), Jan. 28, 2008, 122 Stat. 151, provided that: ''The amendments made by this section [amending this section] shall apply with respect to reenlistments or extensions of enlistment that occur on or after the date of the enactment of this Act [Jan. 28, 2008].''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, § 1071(e), Oct. 17, 2006, 120 Stat. 2401, provided that the amendment made by section 1071(e)(7) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 626(b) of Pub. L. 108–136 effective Mar. 18, 2003, and applicable to reenlistments or voluntary extensions of enlistments entered into on or after that date, see section 626(d) of Pub. L. 108–136, set out as a note under section 308 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 612(f) of Pub. L. 103–160 provided that: ''The amendments made by subsections (a), (b), (d), and (e) [amending this section and sections 308c, 308h, and 308i of this title] shall take effect as of September 30, 1993, and shall apply with respect to an enlistment, reenlistment, or extension of an enlistment described in section 308b, 308c, 308h, or 308i of title 37, United States Code, occurring on or after that date.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 643(b) of Pub. L. 99–145 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1985.''

EFFECTIVE DATE

Section 403(b) of Pub. L. 95–79 provided that: ''The amendments made by subsection (a) [enacting this section] shall apply with respect to any reenlistment, or voluntary extension of an enlistment, in the Selected Reserve of any reserve component of the Armed Forces after September 30, 1977.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

COVERAGE OF PERIOD OF LAPSED AUTHORITY

For provisions relating to coverage of period of lapsed authority from Oct. 1, 1992, to Oct. 23, 1992, for payment of bonuses or other special pay under this section, see section 612(j)(2) of Pub. L. 102–484, set out as a note under section 301b of this title.

## § 308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve

(a) AFFILIATION BONUS AUTHORIZED.—The Secretary concerned may pay an affiliation bonus to an enlisted member of an armed force who—

(1) has completed fewer than 20 years of military service; and

(2) executes a written agreement to serve in the Selected Reserve of the Ready Reserve of an armed force for a period of not less than three years in a skill, unit, or pay grade designated under subsection (b) after being discharged or released from active duty under honorable conditions.

(b) DESIGNATION OF SKILLS, UNITS, AND PAY GRADES.—The Secretary concerned shall designate the skills, units, and pay grades for which an affiliation bonus may be paid under subsection (a). Any skill, unit, or pay grade so designated shall be a skill, unit, or pay grade for which there is a critical need for personnel in the Selected Reserve of the Ready Reserve of an armed force, as determined by the Secretary concerned. The Secretary concerned shall establish other requirements to ensure that members accepted for affiliation meet required performance and discipline standards.

(c) ACCESSION BONUS AUTHORIZED.—The Secretary concerned may pay an accession bonus to a person who—

(1) has not previously served in the armed forces or has served in the armed forces, but was released from such service before completing the basic training requirements of the armed force of which the person was a member and the service was characterized as either honorable or uncharacterized; and

(2) executes a written agreement to serve as an enlisted member in the Selected Reserve of

the Ready Reserve of an armed force for a period of not less than three years upon acceptance of the agreement by the Secretary concerned.

(d) LIMITATION ON AMOUNT OF BONUS.—The amount of a bonus under subsection (a) or (c) may not exceed $20,000.

(e) PAYMENT METHOD.—Upon acceptance of a written agreement by the Secretary concerned, the total amount of the bonus payable under the agreement becomes fixed. The agreement shall specify whether the bonus shall be paid by the Secretary concerned in a lump sum or in installments.

(f) CONTINUED ENTITLEMENT TO BONUS PAYMENTS.—A member entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.

(g) REPAYMENT.—A person who enters into an agreement under subsection (a) or (c) and receives all or part of the bonus under the agreement, but who does not commence to serve in the Selected Reserve or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.

(h) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary of Defense and by the Secretary of Homeland Security for the Coast Guard when it is not operating as a service in the Navy.

(i) TERMINATION OF BONUS AUTHORITY.—No bonus may be paid under this section with respect to any agreement entered into under subsection (a) or (c) after December 31, 2010.

(Added Pub. L. 95–485, title IV, § 404(a), Oct. 20, 1978, 92 Stat. 1614; amended Pub. L. 96–342, title VIII, § 805(b), Sept. 8, 1980, 94 Stat. 1095; Pub. L. 97–22, § 11(b)(1), July 10, 1981, 95 Stat. 138; Pub. L. 99–145, title VI, § 642, Nov. 8, 1985, 99 Stat. 652; Pub. L. 100–180, div. A, title VI, § 626(b), Dec. 4, 1987, 101 Stat. 1104; Pub. L. 101–189, div. A, title VI, §§ 613, 652(b), Nov. 29, 1989, 103 Stat. 1446, 1461; Pub. L. 101–510, div. A, title XIII, § 1322(c)(5), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102–484, div. A, title VI, § 612(d), Oct. 23, 1992, 106 Stat. 2421; Pub. L. 103–160, div. A, title VI, § 612(b), Nov. 30, 1993, 107 Stat. 1680; Pub. L. 103–337, div. A, title VI, § 611(b), Oct. 5, 1994, 108 Stat. 2782; Pub. L. 104–106, div. A, title VI, § 611(b), Feb. 10, 1996, 110 Stat. 359; Pub. L. 104–201, div. A, title VI, § 611(c), Sept. 23, 1996, 110 Stat. 2543; Pub. L. 105–85, div. A, title VI, § 611(c), Nov. 18, 1997, 111 Stat. 1785; Pub. L. 105–261, div. A, title VI, § 611(c), Oct. 17, 1998, 112 Stat. 2038; Pub. L. 106–65, div. A, title VI, §§ 611(c), 620(a), (b), Oct. 5, 1999, 113 Stat. 649, 653; Pub. L. 106–398, § 1 [[div. A], title VI, § 621(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151; Pub. L. 107–107, div. A, title VI, § 611(c), Dec. 28, 2001, 115 Stat. 1135; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, § 611(b), Dec. 2, 2002, 116 Stat. 2567; Pub. L. 108–136, div. A, title VI, § 611(b), Nov. 24, 2003, 117 Stat. 1500; Pub. L. 108–375, div. A, title VI, §§ 611(b), 618(c), Oct. 28, 2004, 118 Stat. 1946, 1949; Pub. L. 109–163, div. A, title VI, §§ 631(a), 687(b)(16), Jan. 6, 2006, 119 Stat. 3298, 3330; Pub. L. 109–364, div. A, title VI, § 611(b), Oct. 17, 2006, 120 Stat. 2247; Pub. L. 110–181, div. A, title VI, §§ 611(b), 620, Jan. 28, 2008, 122 Stat. 148, 151; Pub. L. 110–417, [div. A], title VI, § 611(b), Oct. 14, 2008, 122 Stat. 4484; Pub. L. 111–84, div. A, title VI, § 611(2), Oct. 28, 2009, 123 Stat. 2352.)

AMENDMENTS

2009—Subsec. (i). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (c)(1). Pub. L. 110–181, § 620, inserted before semicolon ''or has served in the armed forces, but was released from such service before completing the basic training requirements of the armed force of which the person was a member and the service was characterized as either honorable or uncharacterized''.

Subsec. (i). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181, § 611(b), substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Pub. L. 109–163, § 631(a), amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to payment of bonuses of up to $10,000 for enlistment in the Selected Reserve.

Subsec. (g). Pub. L. 109–163, § 687(b)(16), added subsec. (g) and struck out heading and text of former subsec. (g). Text read as follows:

''(1) A person who enters into an agreement under subsection (a) or (c) and receives all or part of the bonus under the agreement, but who does not commence to serve in the Selected Reserve or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, shall repay to the United States the amount of the bonus so paid, except as otherwise prescribed under paragraph (2).

''(2) The Secretary concerned shall prescribe in regulations whether repayment of an amount otherwise required under paragraph (1) shall be made in whole or in part, the method for computing the amount of such repayment, and any conditions under which an exception to required repayment would apply.

''(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under subsection (a) or (c) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).''

Subsec. (i). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

2004—Subsec. (b). Pub. L. 108–375, § 618(c)(1), substituted ''$10,000'' for ''$8,000'' in introductory provisions.

Subsec. (e). Pub. L. 108–375, § 611(b), substituted ''December 31, 2005'' for ''December 31, 2004''.

Subsec. (f). Pub. L. 108–375, § 618(c)(2), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''The total amount of expenditures under this section may not exceed $37,024,000 during fiscal year 1994.''

2003—Subsec. (e). Pub. L. 108–136 substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (c). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (e). Pub. L. 107–314 substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (e). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

2000—Subsec. (e). Pub. L. 106–398 substituted ''December 31, 2001'' for ''December 31, 2000''.

1999—Subsec. (a). Pub. L. 106–65, § 620(a), struck out ''for a term of enlistment of not less than six years'' after ''Ready Reserve of an armed force''.

Subsec. (b). Pub. L. 106–65, § 620(b), substituted ''$8,000'' for ''$5,000'' in introductory provisions.

Subsec. (e). Pub. L. 106–65, § 611(c), substituted ''December 31, 2000'' for ''December 31, 1999''.

1998—Subsec. (e). Pub. L. 105–261 substituted ''December 31, 1999'' for ''September 30, 1999''.

1997—Subsec. (e). Pub. L. 105–85 substituted ''September 30, 1999'' for ''September 30, 1998''.

1996—Subsec. (e). Pub. L. 104–201 substituted ''September 30, 1998'' for ''September 30, 1997''.

Pub. L. 104–106 substituted ''September 30, 1997'' for ''September 30, 1996''.

1994—Subsec. (e). Pub. L. 103–337 substituted ''September 30, 1996'' for ''September 30, 1995''.

1993—Subsec. (b). Pub. L. 103–160, § 612(b)(1), substituted ''$5,000'' for ''$2,000'' in introductory provisions and ''an amount not to exceed one-half of the bonus may be paid'' for ''one-half of the bonus shall be paid'' in par. (1).

Subsec. (e). Pub. L. 103–160, § 612(b)(2), substituted ''September 30, 1995'' for ''September 30, 1993''.

Subsec. (f). Pub. L. 103–160, § 612(b)(3), added subsec. (f).

1992—Subsec. (e). Pub. L. 102–484 substituted ''September 30, 1993'' for ''September 30, 1992''.

1990—Subsecs. (e), (f). Pub. L. 101–510 redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: ''The Secretary of Defense shall submit a report to the Congress every three months stating the number of members of the Selected Reserve of the Ready Reserve who at the time of such report are serving a term of enlistment for which a bonus has been paid under this section and listing each unit of the Selected Reserve of the Ready Reserve to which any such member is assigned at the time of such report.''

1989—Subsec. (a). Pub. L. 101–189, § 652(b)(2), struck out '', after September 30, 1978,'' after ''Any person who''.

Subsec. (e). Pub. L. 101–189, § 652(b)(1), struck out at end ''The first such report shall be made not later than December 31, 1978.''

Subsec. (f). Pub. L. 101–189, § 613, substituted ''September 30, 1992'' for ''September 30, 1990''.

1987—Subsec. (f). Pub. L. 100–180 substituted ''September 30, 1990'' for ''September 30, 1987''.

1985—Subsec. (f). Pub. L. 99–145 substituted ''September 30, 1987'' for ''September 30, 1985''.

1981—Subsec. (e). Pub. L. 97–22 substituted ''Secretary of Defense'' for ''Secretary of defense''.

1980—Subsec. (f). Pub. L. 96–342 substituted ''September 30, 1985'' for ''September 30, 1980''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 611(b) of Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, § 620(c), Oct. 5, 1999, 113 Stat. 653, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to enlistments entered into on or after that date.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–160 effective as of Sept. 30, 1993, and applicable with respect to an enlistment, reenlistment, or extension of an enlistment described in this section or section 308b, 308h, or 308i of this title occurring on or after that date, see section 612(f) of Pub. L. 103–160, set out as a note under section 308b of this title.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

COVERAGE OF PERIOD OF LAPSED AUTHORITY

For provisions relating to coverage of period of lapsed authority from Oct. 1, 1992, to Oct. 23, 1992, for payment of bonuses or other special pay under this section, see section 612(j)(2) of Pub. L. 102–484, set out as a note under section 301b of this title.

## § 308d. Special pay: members of the Selected Reserve assigned to certain high priority units

(a) Under regulations prescribed by the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, a member who is assigned to a high priority unit of the Selected Reserve of the Ready Reserve of an armed force, as designated under subsection (b), and who performs inactive duty for training for compensation under section 206 of this title with such unit may be paid compensation, in addition to the compensation to which the member is otherwise entitled, in an amount not to exceed $50 for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least four hours, including any such instruction or duty performed on a Sunday or holiday.

(b) The Secretary concerned may designate a unit, for the purposes of subsection (a) and under such terms and conditions as the Secretary considers appropriate, as a high priority unit if that unit has experienced, or reasonably might be expected to experience, critical personnel shortages. The Secretary may vacate a designation made under this subsection at any time he considers the designation no longer necessary.

(c) Additional compensation may not be paid under this section for inactive duty performed after December 31, 2010.

(Added Pub. L. 101–189, div. A, title V, § 505(a)(1), Nov. 29, 1989, 103 Stat. 1437; amended Pub. L. 102–190, div. A, title VI, § 612(b)(1), Dec. 5, 1991, 105 Stat. 1376; Pub. L. 102–484, div. A, title VI, § 612(e), Oct. 23, 1992, 106 Stat. 2421; Pub. L. 103–160, div. A, title VI, § 613(d), Nov. 30, 1993, 107 Stat. 1681; Pub. L. 103–337, div. A, title VI, § 613(d), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title VI, § 613(d), Feb. 10, 1996, 110 Stat. 359; Pub. L. 104–201, div. A, title VI, § 611(d), Sept. 23, 1996, 110 Stat. 2543; Pub. L. 105–85, div. A, title VI, § 611(d), Nov. 18, 1997, 111 Stat. 1785; Pub. L. 105–261, div. A, title VI, § 611(d), Oct. 17, 1998, 112 Stat. 2038; Pub. L. 106–65, div. A, title VI, §§ 611(d), 621, Oct. 5, 1999, 113 Stat. 650, 653; Pub. L. 106–398, § 1 [[div. A], title VI, § 621(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151; Pub. L.

107–107, div. A, title VI, § 611(d), Dec. 28, 2001, 115 Stat. 1135; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, § 611(c), Dec. 2, 2002, 116 Stat. 2567; Pub. L. 108–136, div. A, title VI, § 611(c), Nov. 24, 2003, 117 Stat. 1500; Pub. L. 108–375, div. A, title VI, § 611(c), Oct. 28, 2004, 118 Stat. 1946; Pub. L. 109–163, div. A, title VI, §§ 621(b), 632(a)–(c)(1), Jan. 6, 2006, 119 Stat. 3294, 3299; Pub. L. 109–364, div. A, title VI, § 611(c), Oct. 17, 2006, 120 Stat. 2247; Pub. L. 110–181, div. A, title VI, § 611(c), Jan. 28, 2008, 122 Stat. 148; Pub. L. 110–417, [div. A], title VI, § 611(c), Oct. 14, 2008, 122 Stat. 4484; Pub. L. 111–84, div. A, title VI, § 611(3), Oct. 28, 2009, 123 Stat. 2352.)

PRIOR PROVISIONS

A prior section 308d, added Pub. L. 96–342, title VIII, § 805(a)(1), Sept. 8, 1980, 94 Stat. 1092, related to special pay and to a bonus for enlistment, reenlistment, or extension of enlistment in elements of the Ready Reserve other than the Selected Reserve, prior to repeal by Pub. L. 98–94, title X, § 1011(b)(1), Sept. 24, 1983, 97 Stat. 664, effective Oct. 1, 1983. See sections 308g and 308h of this title.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (c). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Pub. L. 109–163, § 632(c)(1), substituted ''Special pay: members of the Selected Reserve assigned to certain high priority units'' for ''Special pay: enlisted members of the Selected Reserve assigned to certain high priority units'' in section catchline.

Subsec. (a). Pub. L. 109–163, § 632(a), (b), substituted ''a member'' for ''an enlisted member'' and ''$50'' for ''$10''.

Subsec. (c). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, § 621(b), substituted ''December 31, 2006'' for ''December 31, 2005''.

2004—Subsec. (c). Pub. L. 108–375 substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (c). Pub. L. 108–136 substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (a). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (c). Pub. L. 107–314 substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (c). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

2000—Subsec. (c). Pub. L. 106–398 substituted ''December 31, 2001'' for ''December 31, 2000''.

1999—Subsec. (a). Pub. L. 106–65, § 621, inserted ''or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy,'' after ''Secretary of Defense,''.

Subsec. (c). Pub. L. 106–65, § 611(d), substituted ''December 31, 2000'' for ''December 31, 1999''.

1998—Subsec. (c). Pub. L. 105–261 substituted ''December 31, 1999'' for ''September 30, 1999''.

1997—Subsec. (c). Pub. L. 105–85 substituted ''September 30, 1999'' for ''September 30, 1998''.

1996—Subsec. (c). Pub. L. 104–201 substituted ''September 30, 1998'' for ''September 30, 1997''.

Pub. L. 104–106 substituted ''September 30, 1997'' for ''September 30, 1996''.

1994—Subsec. (c). Pub. L. 103–337 substituted ''September 30, 1996'' for ''September 30, 1995''.

1993—Subsec. (c). Pub. L. 103–160 substituted ''September 30, 1995'' for ''September 30, 1993''.

1992—Subsec. (c). Pub. L. 102–484 substituted ''September 30, 1993'' for ''September 30, 1992''.

1991—Subsec. (c). Pub. L. 102–190 substituted ''1992'' for ''1991''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 613(h)(2) of Pub. L. 103–160 provided that: ''The amendment made by subsection (d) [amending this section] shall take effect as of September 30, 1993, and shall apply with respect to inactive duty for training performed after that date for which special pay is authorized under section 308d of title 37, United States Code.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 612(j)(1) of Pub. L. 102–484 provided that: ''The amendment made by subsection (e) [amending this section] shall take effect as of September 30, 1992, and shall apply with respect to inactive duty for training performed after that date for which special pay is authorized under section 308d of title 37, United States Code.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 612(b)(2) of Pub. L. 102–190 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as of September 30, 1991, and shall apply with respect to inactive duty for training performed after that date for which special pay is authorized under section 308d of such title.''

REPORT TO CONGRESS

Section 505(b) of Pub. L. 101–189 directed Secretary of Defense, not later than May 1, 1991, to submit to Congress a report on the administration of the special pay program provided for in 37 U.S.C. 308d.

## [§ 308e. Repealed. Pub. L. 109–163, div. A, title VI, § 631(b), Jan. 6, 2006, 119 Stat. 3299]

Section, added Pub. L. 96–342, title VIII, § 805(a)(1), Sept. 8, 1980, 94 Stat. 1093; amended Pub. L. 97–86, title V, § 505, Dec. 1, 1981, 95 Stat. 1109; Pub. L. 99–145, title VI, § 645(a), Nov. 8, 1985, 99 Stat. 654; Pub. L. 100–180, div. A, title VI, § 626(b), Dec. 4, 1987, 101 Stat. 1104; Pub. L. 101–189, div. A, title VI, § 613, Nov. 29, 1989, 103 Stat. 1446; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title VI, § 612(d), Oct. 23, 1992, 106 Stat. 2421; Pub. L. 103–160, div. A, title VI, § 612(c), Nov. 30, 1993, 107 Stat. 1680; Pub. L. 103–337, div. A, title VI, § 611(c), Oct. 5, 1994, 108 Stat. 2782; Pub. L. 104–106, div. A, title VI, § 611(c), Feb. 10, 1996, 110 Stat. 359; Pub. L. 104–201, div. A, title VI, § 611(e), Sept. 23, 1996, 110 Stat. 2543; Pub. L. 105–85, div. A, title VI, §§ 611(e), 623, Nov. 18, 1997, 111 Stat. 1785, 1793; Pub. L. 105–261, div. A, title VI, § 611(e), Oct. 17, 1998, 112 Stat. 2038; Pub. L. 106–65, div. A, title VI, § 611(e), Oct. 5, 1999, 113 Stat. 650; Pub. L. 106–398, § 1 [[div. A], title VI, § 621(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151; Pub. L. 107–107, div. A, title VI, § 611(e), Dec. 28, 2001, 115 Stat. 1135; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, § 611(d), Dec. 2, 2002, 116 Stat. 2567; Pub. L. 108–136, div. A, title

VI, § 611(d), Nov. 24, 2003, 117 Stat. 1500; Pub. L. 108–375, div. A, title VI, § 611(d), Oct. 28, 2004, 118 Stat. 1946, related to payment of bonus for reserve affiliation agreement.

### [§ 308f. Repealed. Pub. L. 106–398, § 1 [[div. A], title VI, § 624(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–153]

Section, added Pub. L. 97–60, title I, § 117(c)(1), Oct. 14, 1981, 95 Stat. 996; amended Pub. L. 98–14, § 2, Mar. 30, 1983, 97 Stat. 55; Pub. L. 98–525, title VI, § 621(a), Oct. 19, 1984, 98 Stat. 2540; Pub. L. 100–180, div. A, title VI, § 626(a), Dec. 4, 1987, 101 Stat. 1104; Pub. L. 102–25, title VII, § 702(b)(2), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103–160, div. A, title VI, § 613(e), Nov. 30, 1993, 107 Stat. 1681; Pub. L. 103–337, div. A, title VI, § 613(c), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title VI, § 613(c), Feb. 10, 1996, 110 Stat. 359; Pub. L. 104–201, div. A, title VI, § 613(c), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105–85, div. A, title VI, § 613(c), Nov. 18, 1997, 111 Stat. 1786; Pub. L. 105–261, div. A, title VI, §§ 613(c), 620, Oct. 17, 1998, 112 Stat. 2039, 2042; Pub. L. 106–65, div. A, title VI, §§ 613(d), 622(a), Oct. 5, 1999, 113 Stat. 650, 653, related to bonus for enlistment in the Army.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2000, and not to affect the validity or terms of any bonus provided under such section for enlistments in the Armed Forces made before that date, see section 1 [[div. A], title VI, § 624(c)(2)] of Pub. L. 106–398, set out as a note under section 308a of this title.

### § 308g. Special pay: bonus for enlistment in elements of the Ready Reserve other than the Selected Reserve

(a) An eligible person who enlists in a combat or combat support skill of an element (other than the Selected Reserve) of the Ready Reserve of an armed force for a term of enlistment of not less than six years, and who has not previously served in an armed force, may be paid a bonus as provided in subsection (b).

(b) Eligibility for and the amount and method of payment of a bonus under this section shall be determined in accordance with regulations prescribed under subsection (g), except that the amount of such a bonus may not exceed $3,000. A person entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.

(c) A bonus may not be paid under this section for a term of enlistment to any person who fails to complete satisfactorily initial active duty for training or who, upon completion of initial active duty for training, elects to serve the remainder of the term of enlistment in the Selected Reserve or in an active component of an armed force.

(d) A person who does not serve satisfactorily in the element of the Ready Reserve in the combat or combat support skill for the period for which the bonus was paid under this section shall be subject to the repayment provisions of section 303a(e) of this title.

(e) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Homeland Security for the Coast Guard when it is not operating as a service in the Navy.

(f) A bonus may not be paid under this section to any person for an enlistment—

(1) during the period beginning on October 1, 1992, and ending on September 30, 2005; or

(2) after December 31, 2010.

(Added Pub. L. 98–94, title X, § 1011(a), Sept. 24, 1983, 97 Stat. 663; amended Pub. L. 99–145, title VI, § 646(a)(1), title XIII, § 1303(b)(3), Nov. 8, 1985, 99 Stat. 654, 740; Pub. L. 100–180, div. A, title VI, § 626(b), Dec. 4, 1987, 101 Stat. 1104; Pub. L. 101–189, div. A, title VI, § 613, Nov. 29, 1989, 103 Stat. 1446; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–375, div. A, title VI, § 618(d), Oct. 28, 2004, 118 Stat. 1950; Pub. L. 109–163, div. A, title VI, §§ 621(c), 687(b)(17), Jan. 6, 2006, 119 Stat. 3294, 3330; Pub. L. 109–364, div. A, title VI, § 611(d), title X, § 1071(c)(3), Oct. 17, 2006, 120 Stat. 2247, 2400; Pub. L. 110–181, div. A, title VI, § 611(d), Jan. 28, 2008, 122 Stat. 148; Pub. L. 110–417, [div. A], title VI, § 611(d), Oct. 14, 2008, 122 Stat. 4484; Pub. L. 111–84, div. A, title VI, § 611(4), Oct. 28, 2009, 123 Stat. 2352.)

AMENDMENTS

2009—Subsec. (f)(2). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (f)(2). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (d). Pub. L. 109–163, § 687(b)(17)(A), added subsec. (d) and struck out former subsec. (d) which read as follows: ''A person who receives a bonus payment under this section and who fails during the period for which the bonus was paid to serve satisfactorily in the element of the Ready Reserve with respect to which the bonus was paid shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such person as the period which such person failed to serve satisfactorily bears to the total period for which the bonus was paid.''

Subsec. (e). Pub. L. 109–163, § 687(b)(17)(B), (C), redesignated subsec. (g) as (e) and struck out former subsec. (e) which read as follows: ''An obligation to reimburse the United States imposed under subsection (d) is, for all purposes, a debt owed to the United States.''

Subsec. (f). Pub. L. 109–163, § 687(b)(17)(B), (C), redesignated subsec. (h) as (f) and struck out former subsec. (f) which read as follows: ''A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an enlistment for which a bonus was paid under this section does not discharge the person receiving such bonus payment from the debt arising under subsection (d). This subsection applies to any case commenced under title 11 after September 24, 1983.''

Subsec. (f)(2). Pub. L. 109–364, § 1071(c)(3), struck out second period at end.

Pub. L. 109–364, § 611(d), substituted ''December 31, 2007'' for ''December 31, 2006''.

Subsec. (g). Pub. L. 109–163, § 687(b)(17)(C), redesignated subsec. (g) as (e).

Subsec. (h). Pub. L. 109–163, § 687(b)(17)(C), redesignated subsec. (h) as (f).

Pub. L. 109–163, § 621(c), substituted ''an enlistment—'' for ''an enlistment after September 30, 1992'' and added pars. (1) and (2).

2004—Subsec. (b). Pub. L. 108–375 substituted ''$3,000'' for ''$1,000'' and inserted last sentence.

2002—Subsec. (g). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1991—Pub. L. 102–25 struck out ''of this section'' wherever appearing in subsecs. (a), (b), (e), and (f).

1989—Subsec. (h). Pub. L. 101–189 substituted ''September 30, 1992'' for ''September 30, 1990''.

1987—Subsec. (h). Pub. L. 100–180 substituted ''September 30, 1990'' for ''September 30, 1987''.

1985—Subsec. (f). Pub. L. 99–145, §1303(b)(3), substituted ''September 24, 1983'' for ''the date of the enactment of the Department of Defense Authorization Act, 1984''.

Subsec. (h). Pub. L. 99–145, §646(a)(1), substituted ''September 30, 1987'' for ''September 30, 1985''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by section 646(a)(1) of Pub. L. 99–145 effective Oct. 1, 1985, see section 646(d) of Pub. L. 99–145, set out as a note under section 308h of this title.

EFFECTIVE DATE

Section 1011(c) of Pub. L. 98–94 provided that: ''The amendments made by subsections (a) and (b) [enacting this section and section 308h of this title and repealing section 308d of this title] shall take effect on October 1, 1983.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

COAST GUARD; RESERVE FORCES READINESS PROVISIONS INAPPLICABLE

Reserve Forces Readiness provisions, including amendment of subsec. (b) of this section by Pub. L. 98–525 and Individual Ready Reserve Reenlistment Bonuses note above inapplicable to Coast Guard, see section 552(g) of Pub. L. 98–525, set out as a Reserve Forces Readiness note under section 12001 of Title 10, Armed Forces.

## §308h. Special pay: bonus for reenlistment, enlistment, or voluntary extension of enlistment in elements of the Ready Reserve other than the Selected Reserve

(a) AUTHORITY AND ELIGIBILITY REQUIREMENTS.—(1) The Secretary concerned may pay a bonus as provided in subsection (b) to an eligible person who reenlists, enlists, or voluntarily extends an enlistment in a reserve component of an armed force for assignment to an element (other than the Selected Reserve) of the Ready Reserve of that armed force if the reenlistment, enlistment, or extension is for a period of three years, or for a period of six years, beyond any other period the person is obligated to serve.

(2) A person is eligible for a bonus under this section if the person—

(A) is or has been a member of an armed force;

(B) is qualified in a skill or specialty designated by the Secretary concerned as a critically short wartime skill or critically short wartime specialty; and

(C) has not failed to complete satisfactorily any original term of enlistment in the armed forces.

(3) For the purposes of this section, the Secretary concerned may designate a skill or specialty as a critically short wartime skill or critically short wartime specialty for an armed force under the jurisdiction of the Secretary if the Secretary determines that—

(A) the skill or specialty is critical to meet wartime requirements of the armed force; and

(B) there is a critical shortage of personnel in that armed force who are qualified in that skill or specialty.

(4) The Secretary concerned may waive the eligibility requirement in paragraph (2)(B) in the case of a reenlistment or voluntary extension of enlistment by a member of the armed forces that is entered into as described in this subsection while the member is serving on active duty in Afghanistan, Iraq, or Kuwait in support of Operation Enduring Freedom and Operation Iraqi Freedom.

(b) BONUS AMOUNTS; PAYMENT.—(1) Eligibility for and the amount and method of payment of a bonus under this section shall be determined under regulations to be prescribed under subsection (f).

(2) The amount of a bonus under this section—

(A) may not exceed $3,000, in the case of a person who enlists for a period of six years; and

(B) may not exceed $1,500 in the case of a person who enlists for a period of three years.

(3) A bonus paid under this section shall be paid as follows:

(A) In the case of a bonus under paragraph (2)(A)—

(i) $500 shall be paid at the time of the reenlistment, enlistment, or extension of enlistment for which the bonus is paid; and

(ii) the remainder shall be paid in equal annual increments.

(B) In the case of a bonus under paragraph (2)(B), the amount of the bonus shall be paid in equal annual increments.

(4) A person entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.

(c) REPAYMENT.—A person who does not complete the period of enlistment or extension of enlistment for which the bonus was paid under this section shall be subject to the repayment provisions of section 303a(e) of this title.

(d) REGULATIONS.—(1) This section shall be administered under regulations to be prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Homeland Security for the Coast Guard when it is not operating as a service in the Navy.

(2) Regulations under this section may require that as a condition of receiving a bonus under this section the person receiving the bonus agree to participate in an annual muster of the Reserves, or in active duty for training, as may be required by the Secretary concerned.

(e) TERMINATION OF AUTHORITY.—A bonus may not be paid under this section to any person for a reenlistment, enlistment, or voluntary extension of an enlistment after December 31, 2010.

(Added Pub. L. 98–94, title X, § 1011(a), Sept. 24, 1983, 97 Stat. 663; amended Pub. L. 98–525, title V, § 552(f)(2), Oct. 19, 1984, 98 Stat. 2532; Pub. L. 99–145, title VI, § 646(a)–(c), title XIII, § 1303(b)(3), Nov. 8, 1985, 99 Stat. 654, 740; Pub. L. 100–180, div. A, title VI, § 626(b), Dec. 4, 1987, 101 Stat. 1104; Pub. L. 101–189, div. A, title VI, § 613, Nov. 29, 1989, 103 Stat. 1446; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title VI, § 612(d), Oct. 23, 1992, 106 Stat. 2421; Pub. L. 103–160, div. A, title VI, § 612(d), Nov. 30, 1993, 107 Stat. 1680; Pub. L. 103–337, div. A, title VI, § 611(d), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title VI, § 611(d), Feb. 10, 1996, 110 Stat. 359; Pub. L. 104–201, div. A, title VI, § 611(f), Sept. 23, 1996, 110 Stat. 2543; Pub. L. 105–85, div. A, title VI, § 611(f), Nov. 18, 1997, 111 Stat. 1785; Pub. L. 105–261, div. A, title VI, § 611(f), Oct. 17, 1998, 112 Stat. 2038; Pub. L. 106–65, div. A, title VI, § 611(f), Oct. 5, 1999, 113 Stat. 650; Pub. L. 106–398, § 1 [[div. A], title VI, § 621(f)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151; Pub. L. 107–107, div. A, title VI, §§ 611(f), 619(a), (b), Dec. 28, 2001, 115 Stat. 1135, 1137, 1138; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, § 611(e), Dec. 2, 2002, 116 Stat. 2567; Pub. L. 108–136, div. A, title VI, §§ 611(e), 626(c), Nov. 24, 2003, 117 Stat. 1501, 1508; Pub. L. 108–375, div. A, title VI, §§ 611(e), 618(e), Oct. 28, 2004, 118 Stat. 1947, 1950; Pub. L. 109–163, div. A, title VI, §§ 621(d), 687(b)(18), Jan. 6, 2006, 119 Stat. 3294, 3330; Pub. L. 109–364, div. A, title VI, § 611(e), Oct. 17, 2006, 120 Stat. 2247; Pub. L. 110–181, div. A, title VI, § 611(e), Jan. 28, 2008, 122 Stat. 148; Pub. L. 110–417, [div. A], title VI, § 611(e), Oct. 14, 2008, 122 Stat. 4484; Pub. L. 111–84, div. A, title VI, § 611(5), Oct. 28, 2009, 123 Stat. 2352.)

AMENDMENTS

2009—Subsec. (e). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (e). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (c). Pub. L. 109–163, § 687(b)(18)(A), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: ''A person who receives a bonus payment under this section and who fails during the period for which the bonus was paid to serve satisfactorily in the Ready Reserve shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such person as the period which such person failed to serve satisfactorily bears to the total period for which the bonus was paid.''

Subsec. (d). Pub. L. 109–163, § 687(b)(18)(B), (C), redesignated subsec. (f) as (d) and struck out heading and text of former subsec. (d). Text read as follows: ''An obligation to reimburse the United States imposed under subsection (c) is, for all purposes, a debt owed to the United States.''

Subsec. (e). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, § 687(b)(18)(B), (C), redesignated subsec. (g) as (e) and struck out heading and text of former subsec. (e). Text read as follows: ''A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a reenlistment, enlistment, or extension for which a bonus was paid under this section does not discharge the person receiving such bonus payment from the debt arising under subsection (c). This subsection applies to any case commenced under title 11 after September 24, 1983.''

Subsec. (f). Pub. L. 109–163, § 687(b)(18)(C), redesignated subsec. (f) as (d).

Subsec. (g). Pub. L. 109–163, § 687(b)(18)(C), redesignated subsec. (g) as (e).

Pub. L. 109–163, § 621(d), substituted ''December 31, 2006'' for ''December 31, 2005''.

2004—Subsec. (b)(2)(A). Pub. L. 108–375, § 618(e)(1), substituted ''$3,000'' for ''$1,500''.

Subsec. (b)(2)(B). Pub. L. 108–375, § 618(e)(2), substituted ''$1,500'' for ''$750''.

Subsec. (b)(4). Pub. L. 108–375, § 618(e)(3), added par. (4).

Subsec. (g). Pub. L. 108–375, § 611(e), substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (a)(4). Pub. L. 108–136, § 626(c), added par. (4).

Subsec. (g). Pub. L. 108–136, § 611(e), substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (f)(1). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (g). Pub. L. 107–314 substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (a). Pub. L. 107–107, § 619(a), inserted heading and amended text generally. Prior to amendment, text read as follows:

''(a)(1) An eligible person who is or has been a member of an armed force and who reenlists, enlists, or voluntarily extends an enlistment in a combat or combat support skill of an element (other than the Selected Reserve) of the Ready Reserve of an armed force for a period of three years, or for a period of six years, beyond any other period the person is obligated to serve may be paid a bonus as provided in subsection (b).

''(2) A bonus may not be paid under this section to a person who has failed to complete satisfactorily any original term of enlistment in the armed forces.''

Subsecs. (b) to (f). Pub. L. 107–107, § 619(b)(1)–(5), inserted headings.

Subsec. (g). Pub. L. 107–107, § 619(b)(6), inserted heading.

Pub. L. 107–107, § 611(f), substituted ''December 31, 2002'' for ''December 31, 2001''.

2000—Subsec. (g). Pub. L. 106–398 substituted ''December 31, 2001'' for ''December 31, 2000''.

1999—Subsec. (g). Pub. L. 106–65 substituted ''December 31, 2000'' for ''December 31, 1999''.

1998—Subsec. (g). Pub. L. 105–261 substituted ''December 31, 1999'' for ''September 30, 1999''.

1997—Subsec. (g). Pub. L. 105–85 substituted ''September 30, 1999'' for ''September 30, 1998''.

1996—Subsec. (g). Pub. L. 104–201 substituted ''September 30, 1998'' for ''September 30, 1997''.

Pub. L. 104–106 substituted ''September 30, 1997'' for ''September 30, 1996''.

1994—Subsec. (g). Pub. L. 103–337 substituted ''September 30, 1996'' for ''September 30, 1995''.

1993—Subsec. (g). Pub. L. 103–160 substituted ''September 30, 1995'' for ''September 30, 1993''.

1992—Subsec. (g). Pub. L. 102–484 substituted ''September 30, 1993'' for ''September 30, 1992''.

1991—Pub. L. 102–25 struck out ''of this section'' and ''of this subsection'' wherever appearing.

1989—Subsec. (g). Pub. L. 101–189 substituted ''September 30, 1992'' for ''September 30, 1990''.

1987—Subsec. (g). Pub. L. 100–180 substituted ''September 30, 1990'' for ''September 30, 1987''.

1985—Subsec. (a)(1). Pub. L. 99–145, § 646(b)(1), substituted ''for a period of three years, or for a period of

six years,'' for ''for a period of not less than three years''.

Subsec. (b). Pub. L. 99–145, §646(b)(2), designated existing provisions as par. (1), struck out '', except that the amount of such a bonus may not exceed $900 and shall be paid in equal annual increments'', and added pars. (2) and (3).

Subsec. (e). Pub. L. 99–145, §1303(b)(3), substituted ''September 24, 1983'' for ''the date of the enactment of the Department of Defense Authorization Act, 1984''.

Subsec. (f). Pub. L. 99–145, §646(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Pub. L. 99–145, §646(a), substituted ''September 30, 1987'' for ''September 30, 1985''.

1984—Subsec. (b). Pub. L. 98–525 inserted provision for payment in equal annual increments.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 626(c) of Pub. L. 108–136 effective Mar. 18, 2003, and applicable to reenlistments or voluntary extensions of enlistments entered into on or after that date, see section 626(d) of Pub. L. 108–136, set out as a note under section 308 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VI, §619(d), Dec. 28, 2001, 115 Stat. 1138, provided that: ''Subsection (a) of section 308h of title 37, United States Code, as amended by this section, shall apply with respect to reserve component reenlistments, enlistments, and extensions of enlistments that are executed on or after the first day of the first month that begins more than 180 days after the date of the enactment of this Act [Dec. 28, 2001]. Subsection (a) of such section 308h, as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to reserve component reenlistments, enlistments, and extensions of enlistments that are executed before the first day of that first month.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–160 effective as of Sept. 30, 1993, and applicable with respect to an enlistment, reenlistment, or extension of an enlistment described in this section or section 308b, 308c, or 308i of this title occurring on or after that date, see section 612(f) of Pub. L. 103–160, set out as a note under section 308b of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 646(d) of Pub. L. 99–145 provided that: ''The amendments made by this section [amending this section and section 308g of this title] shall take effect on October 1, 1985.''

EFFECTIVE DATE

Section effective Oct. 1, 1983, see section 1011(c) of Pub. L. 98–94, set out as a note under section 308g of this title.

REGULATIONS

Pub. L. 107–107, div. A, title VI, §619(c), Dec. 28, 2001, 115 Stat. 1138, provided that: ''Not later than 180 days after the date of the enactment of this Act [Dec. 28, 2001], the Secretaries of the military departments shall prescribe such regulations as may be necessary for administering subsection (a) of section 308h of title 37, United States Code, as amended by this section.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

COVERAGE OF PERIOD OF LAPSED AUTHORITY

For provisions relating to coverage of period of lapsed authority from Oct. 1, 1992, to Oct. 23, 1992, for payment of bonuses or other special pay under this section, see section 612(j)(2) of Pub. L. 102–484, set out as a note under section 301b of this title.

INDIVIDUAL READY RESERVE REENLISTMENT BONUSES

Section 552(f)(1) of Pub. L. 98–525 provided that: ''In order to encourage members of the Armed Forces whose military service obligation is expiring and who do not choose to reenlist or otherwise extend their service on active duty or in active elements of reserve components to remain in the Armed Forces as members of the Individual Ready Reserve, the Secretary of Defense shall consider making greater use of the authority provided under section 308h of title 37, United States Code, to pay bonuses to persons reenlisting for periods of not less than three years in the Individual Ready Reserve.''

COAST GUARD; RESERVE FORCES READINESS PROVISIONS INAPPLICABLE

Reserve Forces Readiness provisions, including amendment of subsec. (b) of this section by Pub. L. 98–525 and Individual Ready Reserve Reenlistment Bonuses note above, inapplicable to Coast Guard, see section 552(g) of Pub. L. 98–525, set out as a Reserve Forces Readiness note under section 12001 of Title 10, Armed Forces.

## §308i. Special pay: prior service enlistment bonus

(a) AUTHORITY AND ELIGIBILITY REQUIREMENTS.—(1) A person who is a former enlisted member of an armed force who enlists in the Selected Reserve of the Ready Reserve of an armed force for a period of three or six years in a critical military skill designated for such a bonus by the Secretary concerned and who meets the requirements of paragraph (2) may be paid a bonus as prescribed in subsection (b).

(2) A bonus may only be paid under this section to a person who meets each of the following requirements:

(A) The person has not more than 16 years of total military service and received an honorable discharge at the conclusion of all prior periods of service.

(B) The person was not released, or is not being released, from active service for the purpose of enlistment in a reserve component.

(C) The person is projected to occupy, or is occupying, a position as a member of the Selected Reserve in a specialty in which the person—

(i) successfully served while a member on active duty and attained a level of qualification while on active duty commensurate

with the grade and years of service of the member; or

(ii) has completed training or retraining in the specialty skill that is designated as critically short and attained a level of qualification in the specialty skill that is commensurate with the grade and years of service of the member.

(b) BONUS AMOUNTS; PAYMENT.—(1) The amount of a bonus under this section may not exceed—

(A) $15,000, in the case of a person who enlists for a period of six years;

(B) $7,500, in the case of a person who, having never received a bonus under this section, enlists for a period of three years; and

(C) $6,000, in the case of a person who, having received a bonus under this section for a previous three-year enlistment, reenlists or extends the enlistment for an additional period of three years.

(2) Any bonus payable under this section shall be disbursed in one initial payment of an amount not to exceed one-half of the total amount of the bonus and subsequent periodic partial payments of the balance of the bonus. The Secretary concerned shall prescribe the amount of each partial payment and the schedule for making the partial payments.

(3) A person entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.

(c) CONDITION ON ELIGIBILITY; LIMITATION ON NUMBER OF BONUSES.—(1) To be eligible for a second bonus under this section in the amount specified in subsection (b)(1)(C), a person must—

(A) enter into a reenlistment or extension of an enlistment for a period of three years not later than the date on which the enlistment for which the first bonus was paid would expire; and

(B) still satisfy the eligibility requirements under subsection (a).

(2) A person may not be paid more than one six-year bonus or two three-year bonuses under this section.

(d) REPAYMENT.—A person who receives a bonus payment under this section and who, during the period for which the bonus was paid, does not serve satisfactorily in the element of the Selected Reserve with respect to which the bonus was paid shall be subject to the repayment provisions of section 303a(e) of this title.

(e) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(f) TERMINATION OF AUTHORITY.—No bonus may be paid under this section to any person for an enlistment after December 31, 2010.

(Added Pub. L. 99–145, title VI, § 644(a)(1), Nov. 8, 1985, 99 Stat. 652; amended Pub. L. 100–26, § 8(d)(4), Apr. 21, 1987, 101 Stat. 285; Pub. L. 100–180, div. A, title VI, § 626(b), Dec. 4, 1987, 101 Stat. 1104; Pub. L. 101–189, div. A, title VI, § 613, Nov. 29, 1989, 103 Stat. 1446; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title VI, § 612(d), title XI, § 1136, Oct. 23, 1992, 106 Stat. 2421, 2541; Pub. L. 103–160, div. A, title VI, § 612(e), Nov. 30, 1993, 107 Stat. 1680; Pub. L. 103–337, div. A, title VI, § 611(e), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title VI, § 611(e), Feb. 10, 1996, 110 Stat. 359; Pub. L. 104–201, div. A, title VI, § 611(g), Sept. 23, 1996, 110 Stat. 2543; Pub. L. 105–85, div. A, title VI, §§ 611(g), 622, Nov. 18, 1997, 111 Stat. 1785, 1791; Pub. L. 105–261, div. A, title VI, § 611(g), Oct. 17, 1998, 112 Stat. 2038; Pub. L. 106–65, div. A, title VI, §§ 611(g), 623(a), Oct. 5, 1999, 113 Stat. 650, 653; Pub. L. 106–398, § 1 [[div. A], title VI, § 621(g)], Oct. 30, 2000, 114 Stat. 1654, 1654A–151; Pub. L. 107–107, div. A, title VI, § 611(g), Dec. 28, 2001, 115 Stat. 1135; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, §§ 611(f), 617, Dec. 2, 2002, 116 Stat. 2567, 2570; Pub. L. 108–136, div. A, title VI, § 611(f), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, §§ 611(f), 618(f), Oct. 28, 2004, 118 Stat. 1947, 1950; Pub. L. 109–163, div. A, title VI, §§ 621(e), 633, 687(b)(19), Jan. 6, 2006, 119 Stat. 3294, 3299, 3330; Pub. L. 109–364, div. A, title VI, § 611(f), Oct. 17, 2006, 120 Stat. 2247; Pub. L. 110–181, div. A, title VI, § 611(f), Jan. 28, 2008, 122 Stat. 148; Pub. L. 110–417, [div. A], title VI, § 611(f), Oct. 14, 2008, 122 Stat. 4484; Pub. L. 111–84, div. A, title VI, § 611(6), Oct. 28, 2009, 123 Stat. 2352.)

AMENDMENTS

2009—Subsec. (f). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (f). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (a)(2)(A). Pub. L. 109–163, § 633(1), added subpar. (A) and struck out former subpar. (A) which read as follows: ''The person has completed a military service obligation, but has not more than 16 years of total military service, and received an honorable discharge at the conclusion of that military service obligation.''

Subsec. (a)(2)(D). Pub. L. 109–163, § 633(2), struck out subpar. (D) which read as follows: ''The person has not previously been paid a bonus (except under this section) for enlistment, reenlistment, or extension of enlistment in a reserve component.''

Subsec. (d). Pub. L. 109–163, § 687(b)(19), amended heading and text of subsec. (d) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when person fails to serve satisfactorily in element of Selected Reserve of Ready Reserve for which bonus was paid.

Subsec. (f). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, § 621(e), substituted ''December 31, 2006'' for ''December 31, 2005''.

2004—Subsec. (a)(2)(A). Pub. L. 108–375, § 618(f)(1), substituted ''not more than 16 years'' for ''less than 14 years''.

Subsec. (b)(1)(A). Pub. L. 108–375, § 618(f)(2)(A), substituted ''$15,000'' for ''$8,000''.

Subsec. (b)(1)(B). Pub. L. 108–375, § 618(f)(2)(B), substituted ''$7,500'' for ''$4,000''.

Subsec. (b)(1)(C). Pub. L. 108–375, § 618(f)(2)(C), substituted ''$6,000'' for ''$3,500''.

Subsec. (b)(3). Pub. L. 108–375, § 618(f)(3), added par. (3).

Subsec. (f). Pub. L. 108–375, §611(f), substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (f). Pub. L. 108–136 substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (b)(1). Pub. L. 107–314, §617, substituted ''$8,000'' for ''$5,000'' in subpar. (A), ''$4,000'' for ''$2,500'' in subpar. (B), and ''$3,500'' for ''$2,000'' in subpar. (C).

Subsec. (e). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (f). Pub. L. 107–314, §611(f), substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (f). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

2000—Subsec. (f). Pub. L. 106–398 substituted ''December 31, 2001'' for ''December 31, 2000''.

1999—Subsec. (a)(2). Pub. L. 106–65, §623(a), added par. (2) and struck out former par. (2) which set forth requirements for payment of a bonus under this section.

Subsec. (f). Pub. L. 106–65, §611(g), substituted ''December 31, 2000'' for ''December 31, 1999''.

1998—Subsec. (f). Pub. L. 105–261 substituted ''December 31, 1999'' for ''September 30, 1999''.

1997—Subsec. (a). Pub. L. 105–85, §622(e)(1), inserted heading.

Subsec. (a)(2)(A). Pub. L. 105–85, §622(a)(1), substituted ''14 years'' for ''10 years''.

Subsec. (a)(2)(C). Pub. L. 105–85, §622(a)(2), struck out ''and'' at end.

Subsec. (a)(2)(D). Pub. L. 105–85, §622(a)(5), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (a)(2)(E). Pub. L. 105–85, §622(a)(3), (4), redesignated subpar. (D) as (E) and inserted ''(except under this section)'' after ''bonus''.

Subsec. (b). Pub. L. 105–85, §622(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The bonus to be paid under subsection (a) shall be—

''(1) an initial payment of—

''(A) an amount not to exceed $1,250, in the case of a member who enlists for a period of three years; or

''(B) an amount not to exceed $2,500, in the case of a member who enlists for a period of six years; and

''(2) a subsequent payment of an amount not to exceed $416.66 upon the completion of each year of the period of such reenlistment or extension of enlistment during which such member has satisfactorily participated in unit training.''

Subsec. (c). Pub. L. 105–85, §622(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''A member may not be paid more than one bonus under this section and may not be paid a bonus under this section unless the specialty associated with the position the member is projected to occupy is a specialty in which the member successfully served while on active duty and attained a level of qualification commensurate with the member's grade and years of service.''

Subsec. (d). Pub. L. 105–85, §622(d)(1), (e)(2)(A), inserted heading, designated existing provisions as par. (1), and redesignated subsecs. (e), (f), and (g) as pars. (2), (3), and (4), respectively, of subsec. (d).

Subsec. (d)(2). Pub. L. 105–85, §622(e)(2)(B), substituted ''paragraph (1)'' for ''subsection (d)''.

Subsec. (d)(3). Pub. L. 105–85, §622(e)(2)(C), substituted ''subsection (e)'' for ''subsection (h)'' and ''paragraph (1)'' for ''subsection (d)''.

Subsec. (d)(4). Pub. L. 105–85, §622(e)(2)(B), substituted ''paragraph (1)'' for ''subsection (d)''.

Subsec. (e). Pub. L. 105–85, §622(e)(3), inserted heading.

Pub. L. 105–85, §622(d)(2), redesignated subsec. (h) as (e). Former subsec. (e) redesignated subsec. (d)(2).

Subsec. (f). Pub. L. 105–85, §622(e)(4), inserted heading.

Pub. L. 105–85, §622(d)(2), redesignated subsec. (i) as (f). Former subsec. (f) redesignated subsec. (d)(3).

Pub. L. 105–85, §611(g), amended subsec. (f), as redesignated by Pub. L. 105–85, §622(d)(2), by substituting ''September 30, 1999'' for ''September 30, 1998''.

Subsec. (g). Pub. L. 105–85, §622(d)(2), redesignated subsec. (g) as subsec. (d)(4).

Subsecs. (h), (i). Pub. L. 105–85, §622(d)(2), redesignated subsecs. (h) and (i) as (e) and (f), respectively.

1996—Subsec. (i). Pub. L. 104–201 substituted ''September 30, 1998'' for ''September 30, 1997''.

Pub. L. 104–106 substituted ''September 30, 1997'' for ''September 30, 1996''.

1994—Subsec. (i). Pub. L. 103–337 substituted ''September 30, 1996'' for ''September 30, 1995''.

1993—Subsec. (i). Pub. L. 103–160 substituted ''September 30, 1995'' for ''September 30, 1993''.

1992—Subsec. (c). Pub. L. 102–484, §1136, inserted before period at end ''and may not be paid a bonus under this section unless the specialty associated with the position the member is projected to occupy is a specialty in which the member successfully served while on active duty and attained a level of qualification commensurate with the member's grade and years of service''.

Subsec. (i). Pub. L. 102–484, §612(d), substituted ''September 30, 1993'' for ''September 30, 1992''.

1991—Subsecs. (e) to (g). Pub. L. 102–25 struck out ''of this section'' wherever appearing.

1989—Subsec. (i). Pub. L. 101–189 substituted ''September 30, 1992'' for ''September 30, 1990''.

1987—Subsec. (b)(1)(B). Pub. L. 100–26 inserted a comma after ''$2,500''.

Subsec. (i). Pub. L. 100–180 substituted ''September 30, 1990'' for ''September 30, 1987''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, §623(b), Oct. 5, 1999, 113 Stat. 654, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1999, and shall apply to enlistments beginning on or after that date.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–160 effective as of Sept. 30, 1993, and applicable with respect to an enlistment, reenlistment, or extension of an enlistment described in this section or section 308b, 308c, or 308h of this title occurring on or after that date, see section 612(f) of Pub. L. 103–160, set out as a note under section 308b of this title.

EFFECTIVE DATE

Section 644(b) of Pub. L. 99–145 provided that: ''The amendments made by subsection (a) [enacting this section] shall take effect on October 1, 1985.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

COVERAGE OF PERIOD OF LAPSED AUTHORITY

For provisions relating to coverage of period of lapsed authority from Oct. 1, 1992, to Oct. 23, 1992, for

payment of bonuses or other special pay under this section, see section 612(j)(2) of Pub. L. 102–484, set out as a note under section 301b of this title.

### § 308j. Special pay: affiliation bonus for officers in the Selected Reserve

(a) AFFILIATION BONUS.—(1) The Secretary concerned may pay an affiliation bonus under this section to an eligible officer in any of the armed forces who enters into an agreement with the Secretary to serve, for the period specified in the agreement, in the Selected Reserve of the Ready Reserve of an armed force under the Secretary's jurisdiction—

(A) in a critical officer skill designated under paragraph (3); or

(B) to meet a manpower shortage in—

(i) a unit of that Selected Reserve; or

(ii) a particular pay grade in that armed force.

(2) An officer is eligible for an affiliation bonus under this section if the officer—

(A) either—

(i) is serving on active duty for a period of more than 30 days; or

(ii) is a member of a reserve component not on active duty and, if the member formerly served on active duty, was released from active duty under honorable conditions; and

(B) is not entitled to receive retired or retainer pay.

(3)(A) The Secretary concerned shall designate for an armed force under the Secretary's jurisdiction the critical officer skills to which the bonus authority under this subsection is to be applied.

(B) A skill may be designated as a critical officer skill for an armed force under subparagraph (A) if, to meet requirements of that armed force, it is critical for that armed force to have a sufficient number of officers who are qualified in that skill.

(4) An affiliation bonus payable pursuant to an agreement under this section to an eligible officer accrues on the date on which the person is assigned to a unit or position in the Selected Reserve pursuant to such agreement.

(b) ACCESSION BONUS.—(1) The Secretary concerned may pay an accession bonus under this section to an eligible person who enters into an agreement with the Secretary—

(A) to accept an appointment as an officer in the armed forces; and

(B) to serve in the Selected Reserve of the Ready Reserve in a skill designated under paragraph (2) for a period specified in the agreement.

(2)(A) The Secretary concerned shall designate for an armed force under the Secretary's jurisdiction the officer skills to which the authority under this subsection is to be applied.

(B) A skill may be designated for an armed force under subparagraph (A) if, to mitigate a current or projected significant shortage of personnel in that armed force who are qualified in that skill, it is critical to increase the number of persons accessed into that armed force who are qualified in that skill or are to be trained in that skill.

(3) An accession bonus payable to a person pursuant to an agreement under this section accrues on the date on which that agreement is accepted by the Secretary concerned.

(c) PERIOD OF OBLIGATED SERVICE.—An agreement entered into with the Secretary concerned under this section shall require the person entering into that agreement to serve in the Selected Reserve for a specified period. The period specified in the agreement shall be any period not less than three years that the Secretary concerned determines appropriate to meet the needs of the reserve component in which the service is to be performed.

(d) AMOUNT.—The amount of a bonus under this section may be any amount not in excess of $10,000 that the Secretary concerned determines appropriate.

(e) PAYMENT.—(1) Upon acceptance of a written agreement by the Secretary concerned under this section, the total amount of the bonus payable under the agreement becomes fixed. The agreement shall specify whether the bonus is to be paid in one lump sum or in installments.

(2) A person entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.

(f) RELATION TO OTHER ACCESSION BONUS AUTHORITY.—A person may not receive an affiliation bonus or accession bonus under this section and financial assistance under chapter 1608, 1609, or 1611 of title 10, or under section 302g of this title, for the same period of service.

(g) REPAYMENT.—A person who enters into an agreement under this section and receives all or part of the bonus under the agreement, but who does not accept a commission or an appointment as an officer or does not commence to participate or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.

(Added Pub. L. 108–375, div. A, title VI, § 619(a), Oct. 28, 2004, 118 Stat. 1950; amended Pub. L. 109–163, div. A, title VI, § 634(a)–(c)(1), Jan. 6, 2006, 119 Stat. 3300; Pub. L. 109–364, div. A, title X, § 1071(c)(4), Oct. 17, 2006, 120 Stat. 2401.)

AMENDMENTS

2006—Pub. L. 109–163, § 634(c)(1), substituted ''Special pay: affiliation bonus for officers in the Selected Reserve'' for ''Special pay: bonus for certain initial service of officers in the Selected Reserve''.

Subsec. (a)(2)(B), (C). Pub. L. 109–163, § 634(a), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''has not previously served in the Selected Reserve of the Ready Reserve; and''.

Subsec. (d). Pub. L. 109–163, § 634(b), substituted ''$10,000'' for ''$6,000''.

Subsec. (g). Pub. L. 109–364 added subsec. (g) and struck out former subsec. (g) which related to requirement to repay bonus upon failure to commence or complete obligated service, inclusion of repayment requirements in each agreement, and characterization of obligation to repay as a debt owed to the United States.

## §309. Special pay: enlistment bonus

(a) BONUS AUTHORIZED; BONUS AMOUNT.—A person who enlists in an armed force for a period of at least 2 years may be paid a bonus in an amount not to exceed $40,000. The bonus may be paid in a single lump sum or in periodic installments.

(b) REPAYMENT.—A member who does not complete the term of enlistment for which a bonus was paid to the member under this section, or a member who is not technically qualified in the skill for which a bonus was paid to the member under this section, shall be subject to the repayment provisions of section 303a(e) of this title.

(c) RELATION TO PROHIBITION ON BOUNTIES.—The enlistment bonus authorized by this section is not a bounty for purposes of section 514(a) of title 10.

(d) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary of Defense and by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(e) DURATION OF AUTHORITY.—No bonus shall be paid under this section with respect to any enlistment in the armed forces made after December 31, 2010.

(Added Pub. L. 106–398, §1 [[div. A], title VI, §624(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–152; amended Pub. L. 107–107, div. A, title VI, §614(c), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, §614(c), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 108–136, div. A, title VI, §614(c), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, §614(d), Oct. 28, 2004, 118 Stat. 1948; Pub. L. 109–163, div. A, title VI, §§624(d), 635, 687(b)(20), Jan. 6, 2006, 119 Stat. 3295, 3300, 3330; Pub. L. 109–364, div. A, title VI, §614(d), Oct. 17, 2006, 120 Stat. 2248; Pub. L. 110–181, div. A, title VI, §614(c), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title VI, §614(d), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111–84, div. A, title VI, §615(4), Oct. 28, 2009, 123 Stat. 2354.)

PRIOR PROVISIONS

A prior section 309, Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 468, related to authority of Secretary concerned to provide for additional pay for performance of administrative functions by officers of the National Guard and reserve components, prior to repeal by Pub. L. 96–107, title IV, §404(a)(1), (b), Nov. 9, 1979, 93 Stat. 808, 809, applicable only with respect to administrative functions performed after September 30, 1980.

AMENDMENTS

2009—Subsec. (e). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (e). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (a). Pub. L. 109–163, §635, substituted ''$40,000'' for ''$20,000''.

Subsec. (b). Pub. L. 109–163, §687(b)(20), amended heading and text of subsec. (b) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when member is not technically qualified in skill for which bonus was paid or fails to complete term of enlistment for which bonus was paid.

Subsec. (e). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, §624(d), substituted ''December 31, 2006'' for ''December 31, 2005''.

2004—Subsec. (e). Pub. L. 108–375 substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (e). Pub. L. 108–136 substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (d). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (e). Pub. L. 107–314 substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (e). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE

Pub. L. 106–398, §1 [[div. A], title VI, §624(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–153, provided that: ''The amendments made by subsection (a) [enacting this section] shall take effect on October 1, 2000, and apply with respect to enlistments in the Armed Forces made on or after that date.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

## §310. Special pay: duty subject to hostile fire or imminent danger

(a) ELIGIBILITY.—Under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay under subsection (b) for any month or portion of a month in which—

(1) the member was entitled to basic pay or compensation under section 204 or 206 of this title; and

(2) the member—

(A) was subject to hostile fire or explosion of hostile mines;

(B) was on duty in an area in which the member was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period the member was on duty in the area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines;

(C) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action; or

(D) was on duty in a foreign area in which the member was subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions.

(b) SPECIAL PAY AMOUNT; PRORATION.—(1) The special pay authorized by subsection (a) may not exceed $225 a month.

(2) Except as provided in subsection (c), if a member does not satisfy the eligibility requirements specified in paragraphs (1) and (2) of subsection (a) for an entire month for receipt of special pay under subsection (a), the Secretary concerned may prorate the payment amount to reflect the duration of the member's actual qualifying service during the month.

(c) CONTINUATION DURING HOSPITALIZATION.—(1) A member described in paragraph (2) may be paid special pay under this section for not more than three additional months during which the member is hospitalized as described in such paragraph.

(2) Paragraph (1) applies with respect to a member who—

(A) is injured or wounded under the circumstances described in subsection (a)(2)(C) and is hospitalized for the treatment of the injury or wound; or

(B) while in the line of duty, incurs a wound, injury, or illness in a combat operation or combat zone designated by the Secretary of Defense and is hospitalized outside of the theater of the combat operation or the combat zone for the treatment of the wound, injury, or illness.

(d) LIMITATIONS AND ADMINISTRATION.—(1) In the case of an area described in subparagraph (B) or (D) of subsection (a)(2), the Secretary of Defense shall be responsible for designating the period during which duty in the area will qualify members for special pay under this section. The effective date designated for the commencement of such a period may be a date occurring before, on, or after the actual date on which the Secretary makes the designation. If the commencement date for such a period is a date occurring before the date on which the Secretary makes the designation, the payment of special pay under this section for the period between the commencement date and the date on which the Secretary makes the designation shall be subject to the availability of appropriated funds for that purpose.

(2) A member may not be paid more than one special pay under this section for any month. A member may be paid special pay under this section in addition to any other pay and allowances to which he may be entitled.

(e) DETERMINATIONS OF FACT.—Any determination of fact that is made in administering this section is conclusive. Such a determination may not be reviewed by any other officer or agency of the United States unless there has been fraud or gross negligence. However, the determination may be changed on the basis of new evidence or for other good cause.

(Added Pub. L. 88–132, § 9(a)(1), Oct. 2, 1963, 77 Stat. 216; amended Pub. L. 89–132, § 4, Aug. 21, 1965, 79 Stat. 547; Pub. L. 98–94, title IX, § 905(a), (b)(1), Sept. 24, 1983, 97 Stat. 636, 637; Pub. L. 99–145, title VI, § 638(a), Nov. 8, 1985, 99 Stat. 649; Pub. L. 101–510, div. A, title XIII, § 1322(c)(6), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102–190, div. A, title VI, §§ 611(a), 613, Dec. 5, 1991, 105 Stat. 1376, 1377; Pub. L. 105–261, div. A, title VI, § 621, Oct. 17, 1998, 112 Stat. 2042; Pub. L. 108–11, title I, § 1316(a), (c)(2), Apr. 16, 2003, 117 Stat. 570; Pub. L. 108–136, div. A, title VI, §§ 618(a), (b), (d)(2), 619, Nov. 24, 2003, 117 Stat. 1503, 1504; Pub. L. 108–375, div. A, title VI, § 623(a), Oct. 28, 2004, 118 Stat. 1955; Pub. L. 109–163, div. A, title VI, §§ 636, 642(b), Jan. 6, 2006, 119 Stat. 3300, 3306; Pub. L. 111–84, div. A, title VI, § 618(a), Oct. 28, 2009, 123 Stat. 2355.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–84, § 618(a)(1), struck out "and Special Pay Amount" after "Eligibility" in heading and substituted "under subsection (b) for any month or portion of a month" for "at the rate of $225 for any month" in introductory provisions.

Subsecs. (b), (c). Pub. L. 111–84, § 618(a)(3), (4), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(3). Pub. L. 111–84, § 618(a)(2), struck out par. (3) which read as follows: "A member of a reserve component who is eligible for special pay under this section for a month shall receive the full amount authorized in subsection (a) for that month regardless of the number of days during that month on which the member satisfies the eligibility criteria specified in such subsection."

Subsecs. (d), (e). Pub. L. 111–84, § 618(a)(3), redesignated subsecs. (c) and (d) as (d) and (e), respectively.

2006—Subsec. (b). Pub. L. 109–163, § 642(b), designated existing text as par. (1), substituted "A member described in paragraph (2)" for "A member covered by subsection (a)(2)(C) who is hospitalized for the treatment of the injury or wound" and "hospitalized as described in such paragraph" for "so hospitalized", and added par. (2).

Subsec. (c). Pub. L. 109–163, § 636, added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

2004—Subsec. (a). Pub. L. 108–375, § 623(a)(2)(A), substituted "$225" for "$150".

Subsec. (e). Pub. L. 108–375, § 623(a)(2)(B), struck out heading and text of subsec. (e). Text read as follows: "For the period beginning on October 1, 2003, and ending on December 31, 2005, the rate of pay authorized by subsection (a) shall be increased to $225."

Pub. L. 108–375, § 623(a)(1), substituted "December 31, 2005" for "December 31, 2004".

2003—Subsec. (a). Pub. L. 108–136, § 618(a)(2), added subsec. (a) and struck out former subsec. (a) which read as follows: "Under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay at the rate of $150 for any month in which he was entitled to basic pay and in which he—

"(1) was subject to hostile fire or explosion of hostile mines;

"(2) was on duty in an area in which he was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period he was on duty in that area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines;

"(3) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action; or

"(4) was on duty in a foreign area in which he was subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions.

A member covered by clause (3) who is hospitalized for the treatment of his injury or wound may be paid special pay under this section for not more than three additional months during which he is so hospitalized.''

Pub. L. 108–11, §1316(a), (c), as amended by Pub. L. 108–136, §618(d)(2), temporarily substituted ''$225'' for ''$150'' in introductory provisions. See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (b). Pub. L. 108–136, §618(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108–136, §618(b)(1), inserted heading.

Pub. L. 108–136, §618(a)(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 108–136, §618(b)(2), inserted heading.

Pub. L. 108–136, §618(a)(1), redesignated subsec. (c) as (d).

Subsec. (e). Pub. L. 108–136, §619, added subsec. (e).

1998—Subsec. (b). Pub. L. 105–261 designated existing provisions as par. (1) and added par. (2).

1991—Subsec. (a). Pub. L. 102–190 substituted ''Under'' for ''Except in time of war declared by Congress, and under'' and ''rate of $150'' for ''lowest rate for hazardous duty incentive pay specified in section 301(c)(1) of this title''.

1990—Subsec. (d). Pub. L. 101–510 struck out subsec. (d) which read as follows: ''The Secretary of Defense shall report to Congress by March 1 of each year on the administration of this section during the preceding calendar year.''

1985—Subsec. (a). Pub. L. 99–145 substituted ''at the lowest rate for hazardous duty incentive pay specified in section 301(c)(1) of this title'' for ''at the rate of $65 a month'' in provisions preceding cl. (1).

1983—Pub. L. 98–94, §905(b)(1), inserted ''or imminent danger'' in section catchline.

Subsec. (a)(4). Pub. L. 98–94, §905(a), added cl. (4).

1965—Subsec. (a). Pub. L. 89–132 increased rate of special pay from $55 to $65 a month.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title VI, §623(a)(2), Oct. 28, 2004, 118 Stat. 1955, provided that the amendments made by section 623(a)(2) are effective Jan. 1, 2006.

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENTS

Pub. L. 108–136, div. A, title VI, §618(c), Nov. 24, 2003, 117 Stat. 1504, provided that: ''Subsections (a) and (b) of section 310 of title 37, United States Code, as added by subsection (a)(2), shall take effect as of September 11, 2001.''

Pub. L. 108–136, div. A, title VI, §618(d)(2), Nov. 24, 2003, 117 Stat. 1504, provided that the amendment made by section 618(d)(2) is effective Apr. 16, 2003.

Pub. L. 108–11, title I, §1316(c), Apr. 16, 2003, 117 Stat. 570, as amended by Pub. L. 108–136, div. A, title VI, §618(d)(2), Nov. 24, 2003, 117 Stat. 1504, provided that:

''(1) The amendments made by subsections (a) and (b) [amending this section and section 427 of this title] shall expire on September 30, 2003.

''(2) Effective on September 30, 2003, the dollar amounts specified in sections 310(a) of title 37, United States Code, and 427(a)(1) of title 37, United States Code, as in effect on the day before the date of the enactment of this Act [Apr. 16, 2003] are hereby revived.''

Pub. L. 108–11, title I, §1316(d), Apr. 16, 2003, 117 Stat. 571, provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 427 of this title] shall take effect on October 1, 2002, and shall apply with respect to months beginning on or after that date.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 638(b) of Pub. L. 99–145 provided that: ''The amendment made by this section [amending this section] shall take effect on October 1, 1985.''

EFFECTIVE DATE OF 1983 AMENDMENT

Section 905(c) of Pub. L. 98–94 provided that: ''The amendments made by this section [amending this section] shall take effect on October 1, 1983.''

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–132 effective Sept. 1, 1965, see section 10 of Pub. L. 89–132, set out as a note under section 203 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

RELATION TO TEMPORARY INCREASE IN AUTHORIZED AMOUNT OF HOSTILE FIRE AND IMMINENT DANGER SPECIAL PAY

Pub. L. 108–136, div. A, title VI, §618(d)(1), Nov. 24, 2003, 117 Stat. 1504, provided that: ''The amendment made by subsection (a)(2) [amending this section] does not affect the authority to pay an increased amount of hostile fire and imminent danger special pay under section 310 of title 37, United States Code, pursuant to—

''(A) the amendment made by subsection (a) of section 1316 of Public Law 108–11 (117 Stat. 570) [amending this section] during the period specified in subsection (c)(1) of such section, as modified by section 113 of Public Law 108–84 (117 Stat. 1044); or

''(B) the amendment made by section 619 of this Act [amending this section] during the period specified in such amendment.''

RETROACTIVE PAYMENT OF HOSTILE FIRE OR IMMINENT DANGER PAY FOR SERVICE IN EASTERN MEDITERRANEAN SEA IN OPERATION IRAQI FREEDOM

Pub. L. 108–136, div. A, title VI, §620, Nov. 24, 2003, 117 Stat. 1504, provided that:

''(a) PAYMENT AUTHORIZED.—The Secretary of Defense may authorize the payment of hostile fire or imminent danger pay under section 310(a) of title 37, United States Code, to members of the Armed Forces who were assigned to duty, during the period beginning on March 19, 2003, and ending on April 11, 2003, in the area specified in subsection (b) in connection with Operation Iraqi Freedom at any time during that period.

''(b) SPECIFIED AREA.—The area referred to in subsection (a) is the Mediterranean Sea east of 30 degrees East Longitude (sea area only).''

RATES OF PAY FOR FISCAL YEAR 2004

Pub. L. 108–106, title I, §1104, Nov. 6, 2003, 117 Stat. 1214, provided that: ''From October 1, 2003, through September 30, 2004, (a) the rates of pay authorized by section 310(a) of title 37, United States Code, shall be $225; and (b) the rates of pay authorized by section 427(a)(1) of title 37, United States Code, shall be $250.''

RETROACTIVE AUTHORIZATION FOR IMMINENT DANGER PAY FOR SERVICE IN CONNECTION WITH OPERATION ENDURING FREEDOM

Pub. L. 107–107, div. A, title VI, §624, Dec. 28, 2001, 115 Stat. 1143, provided that:

''(a) RETROACTIVE AUTHORIZATION.—The Secretary of Defense may provide for the payment of imminent danger pay under section 310 of title 37, United States Code, to members of the Armed Forces assigned to duty in the areas specified in subsection (b) in connection with the contingency operation known as Operation Enduring Freedom with respect to periods of duty served in those areas during the period beginning on September 19, 2001, and ending October 31, 2001.

''(b) SPECIFIED AREAS.—The areas referred to in subsection (a) are the following:

''(1) The land areas of Kyrgyzstan, Oman, the United Arab Emirates, and Uzbekistan.

''(2) The Red Sea, the Gulf of Aden, the Gulf of Oman, and the Arabian Sea (that portion north of 10° north latitude and west of 68° east longitude).''

TEMPORARY INCREASE IN SPECIAL PAY IN CONNECTION WITH PERSIAN GULF CONFLICT

Pub. L. 102–25, title III, § 301, Apr. 6, 1991, 105 Stat. 80, provided that:

''(a) INCREASED RATE.—In lieu of the rate of special pay specified in section 310(a) of title 37, United States Code, the rate of special pay payable under that section shall be $150 for each month during the period described in subsection (b).

''(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on August 1, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.''

IMMINENT DANGER PAY IN CONNECTION WITH OPERATION DESERT SHIELD

Section 1111(a) of Pub. L. 101–510 provided that: ''The Secretary of Defense may provide for the payment of imminent danger pay under section 310 of title 37, United States Code, to members of the Armed Forces assigned to duty in the Persian Gulf area in connection with Operation Desert Shield with respect to periods of duty served after August 1, 1990, and before the date of the enactment of this Act [Nov. 5, 1990].''

**[§ 311. Repealed. Pub. L. 99–145, title VI, § 639(b), Nov. 8, 1985, 99 Stat. 651]**

Section, added Pub. L. 90–207, § 1(2)(A), Dec. 16, 1967, 81 Stat. 651; amended Pub. L. 90–603, § 1, Oct. 18, 1968, 82 Stat. 1187; Pub. L. 90–623, § 3(5), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 93–274, § 1(3), May 6, 1974, 88 Stat. 95; Pub. L. 93–394, § 1, Aug. 29, 1974, 88 Stat. 792; Pub. L. 96–284, § 4(d)(1)–(3), June 28, 1980, 94 Stat. 591, 592; Pub. L. 96–513, title IV, § 414(b), title V, § 516(7), Dec. 12, 1980, 94 Stat. 2906, 2938, provided for continuation pay for dentists in the armed forces. See section 302b of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1985, see section 639(f) of Pub. L. 99–145, set out as an Effective Date of 1985 Amendment note under section 302b of this title.

**§ 312. Special pay: nuclear-qualified officers extending period of active service**

(a) SPECIAL PAY AUTHORIZED; ELIGIBILITY.—Under regulations to be prescribed by the Secretary of the Navy, the Secretary may pay special pay under subsection (b) to an officer of the naval service who—

(1) is entitled to basic pay;

(2) has the current technical qualification for duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants; and

(3) executes a written agreement to remain on active duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants for a period of not less than three years, so long as the new period of obligated active service does not extend beyond the end of 30 years of commissioned service, in addition to any other period of obligated active service.

(b) PAYMENT AMOUNT; PAYMENT OPTIONS.—(1) The total amount paid to an officer under an agreement under subsection (a) or (e)(1) may not exceed $30,000 for each year of the active-service agreement. Amounts paid under the agreement are in addition to all other compensation to which the officer is entitled.

(2) The Secretary shall determine annually the necessity for continuance of the special pay and the rate of special pay per year for such active-service agreements accepted within each 12-month period.

(3) Upon acceptance of an agreement under subsection (a) or (e)(1) by the Secretary, the total amount payable shall be paid in a single lump-sum or in annual installments of equal or different amounts over the length of the contract, commencing at the expiration of any existing period of obligated active service.

(4) The Secretary may accept an active service agreement under this section not more than one year in advance of the end of an officer's existing period of obligated active service under such an agreement. In such a case, the amount of the special pay may be paid commencing with the date of acceptance of the agreement, and, if the special pay will be paid in annual installments, the number of installments may not exceed the number of years covered by the agreement plus one.

(c) REPAYMENT.—An officer who does not complete the period of active duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants that the officer agreed to serve, and for which a payment was made under subsection (b) or (e)(1), shall be subject to the repayment provisions of section 303a(e) of this title.

(d) RELATION TO SERVICE OBLIGATION.—Nothing in this section shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion of the additional period of active service under this section shall in no way obligate the President to accept a resignation submitted by a regular officer.

(e) NEW AGREEMENT.—(1) An officer who is performing obligated service under an agreement under subsection (a) may, if the amount that may be paid under subsection (b) is higher than at the time the officer executed such agreement, execute a new agreement under this subsection. The period of such an agreement shall be a period equal to or exceeding the original period of the officer's existing agreement, so long as the period of obligated active service under the new agreement does not extend beyond the maximum number of years of commissioned service authorized by subsection (a)(3). If a new agreement is executed under this subsection, the existing active-service agreement shall be cancelled, effective on the day before an anniversary date of that agreement after the date on which the amount that may be paid under this section is increased.

(2) This subsection shall be carried out under regulations prescribed by the Secretary of the Navy.

(f) DURATION OF AUTHORITY.—The provisions of this section shall be effective only in the case of officers who, on or before December 31, 2010, execute the required written agreement to remain in active service.

(Added Pub. L. 91–20, § 1(1), June 3, 1969, 83 Stat. 12; amended Pub. L. 92–581, § 1(1), (2), Oct. 27, 1972, 86 Stat. 1277; Pub. L. 94–356, § 2, July 12, 1976, 90 Stat. 901; Pub. L. 96–513, title V, § 516(8), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96–579, § 2(a),

Dec. 23, 1980, 94 Stat. 3359; Pub. L. 99–145, title VI, §632(a), Nov. 8, 1985, 99 Stat. 643; Pub. L. 101–189, div. A, title VI, §614(a), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103–337, div. A, title VI, §613(g), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title VI, §613(e), Feb. 10, 1996, 110 Stat. 360; Pub. L. 104–201, div. A, title VI, §613(d), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105–85, div. A, title VI, §§613(d), 624(a), Nov. 18, 1997, 111 Stat. 1786, 1793; Pub. L. 105–261, div. A, title VI, §613(d), Oct. 17, 1998, 112 Stat. 2039; Pub. L. 106–65, div. A, title VI, §§613(e), 624(a), Oct. 5, 1999, 113 Stat. 650, 654; Pub. L. 106–398, §1 [[div. A], title VI, §623(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–152; Pub. L. 107–107, div. A, title VI, §613(a), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 107–314, div. A, title VI, §613(a), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 108–136, div. A, title VI, §613(a), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, §613(a), Oct. 28, 2004, 118 Stat. 1947; Pub. L. 109–163, div. A, title VI, §§623(a), 637, 687(b)(21), Jan. 6, 2006, 119 Stat. 3294, 3301, 3331; Pub. L. 109–364, div. A, title VI, §§613(a), 618, Oct. 17, 2006, 120 Stat. 2248, 2251; Pub. L. 110–181, div. A, title VI, §§613(a), 621(a), Jan. 28, 2008, 122 Stat. 149, 151; Pub. L. 110–417, [div. A], title VI, §§613(a), 617, Oct. 14, 2008, 122 Stat. 4485, 4486; Pub. L. 111–84, div. A, title VI, §613(1), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (f). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (a)(3). Pub. L. 110–417, §617, substituted ''not less than three years'' for ''three, four, or five years''.

Pub. L. 110–181, §621(a)(1), substituted ''30 years'' for ''26 years''.

Subsec. (e)(1). Pub. L. 110–181, §621(a)(2), substituted ''the maximum number of years of commissioned service authorized by subsection (a)(3)'' for ''the end of 26 years of commissioned service''.

Subsec. (f). Pub. L. 110–417, §613(a), substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181, §613(a), substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (a). Pub. L. 109–364, §618(c)(1), inserted heading.

Pub. L. 109–364, §618(b)(2)(C), designated concluding provisions as subsec. (b).

Pub. L. 109–364, §618(b)(2)(A), substituted ''the Secretary may pay special pay under subsection (b) to an officer'' for ''an officer'' in introductory provisions.

Pub. L. 109–364, §618(a), in concluding provisions, substituted ''in a single lump-sum or in annual installments of equal or different amounts'' for ''in equal annual installments'' and ''and, if the special pay will be paid in annual installments, the number of installments may not exceed the number of years covered by the agreement plus one'' for ''with the number of installments being equal to the number of years covered by the contract plus one''.

Pub. L. 109–163, §637, substituted ''$30,000'' for ''$25,000'' in concluding provisions.

Subsec. (a)(3). Pub. L. 109–364, §618(b)(2)(B), substituted period for comma at end.

Subsec. (b). Pub. L. 109–364, §618(b)(1), (2)(C)–(E), designated concluding provisions of subsec. (a) as (b), inserted heading, and substituted ''(1) The total amount paid to an officer under an agreement under subsection (a) or (e)(1) may not exceed $30,000 for each year of the active-service agreement. Amounts paid under the agreement are in addition to all other compensation to which the officer is entitled.'' for ''may, upon the acceptance by the Secretary or his designee of the written agreement, in addition to all other compensation to which he is entitled, be paid a sum of money not to exceed $30,000 for each year of the active-service agreement.'', ''(2) The Secretary shall'' for ''The Secretary of the Navy shall'', ''(3) Upon acceptance of an agreement under subsection (a) or (e)(1) by the Secretary'' for ''Upon acceptance of the agreement by the Secretary or his designee'', and ''(4) The Secretary'' for ''The Secretary (or his designee)''. Former subsec. (b) redesignated (c).

Pub. L. 109–163, §687(b)(21), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Pursuant to regulations prescribed by the Secretary of the Navy and subject to such exceptions as may be prescribed in those regulations, refunds, on a pro rata basis, of sums paid pursuant to this section may be required if the officer having received the payment fails to complete the full period of active duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants which he agreed to serve.''

Subsec. (c). Pub. L. 109–364, §618(b)(1), (3), (c)(2), redesignated subsec. (b) as (c), inserted heading, and substituted ''subsection (b) or (e)(1)'' for ''subsection (a) or subsection (d)(1)''. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109–364, §618(b)(1), (c)(3), redesignated subsec. (c) as (d) and inserted heading. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109–364, §618(b)(1), (c)(4), redesignated subsec. (d) as (e) and inserted heading. Former subsec. (e) redesignated (f).

Pub. L. 109–364, §613(a), substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, §623(a), substituted ''December 31, 2006'' for ''December 31, 2005''.

Subsec. (e)(1). Pub. L. 109–364, §618(b)(4), in first sentence, substituted ''subsection (b)'' for ''such subsection'' and ''this subsection'' for ''that subsection''.

Subsec. (f). Pub. L. 109–364, §618(b)(1), (c)(5), redesignated subsec. (e) as (f) and inserted heading.

2004—Subsec. (e). Pub. L. 108–375 substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (e). Pub. L. 108–136 substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (e). Pub. L. 107–314 substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (e). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

2000—Subsec. (e). Pub. L. 106–398 substituted ''December 31, 2001'' for ''December 31, 2000''.

1999—Subsec. (a). Pub. L. 106–65, §624(a), substituted ''$25,000'' for ''$15,000'' in concluding provisions.

Subsec. (e). Pub. L. 106–65, §613(e), substituted ''December 31, 2000'' for ''December 31, 1999''.

1998—Subsec. (e). Pub. L. 105–261 substituted ''December 31, 1999'' for ''September 30, 1999''.

1997—Subsec. (a). Pub. L. 105–85, §624(a), substituted ''$15,000'' for ''$12,000'' in concluding provisions.

Subsec. (e). Pub. L. 105–85, §613(d), substituted ''September 30, 1999'' for ''September 30, 1998''.

1996—Subsec. (e). Pub. L. 104–201 substituted ''September 30, 1998'' for ''September 30, 1997''.

Pub. L. 104–106 substituted ''September 30, 1997'' for ''September 30, 1996''.

1994—Subsec. (e). Pub. L. 103–337 substituted ''September 30, 1996'' for ''September 30, 1995''.

1991—Subsec. (d)(1). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

1989—Subsec. (e). Pub. L. 101–189 substituted ''September 30, 1995'' for ''September 30, 1990''.

1985—Subsec. (a). Pub. L. 99–145, §632(a)(1)(D), in provisions following numbered clauses, substituted ''$12,000'' for ''$7,000'', ''annually'' for ''semiannually'', ''12-month period'' for ''six-month period'', and ''shall be paid in equal annual installments over the length of the contract, commencing at the expiration of any existing period of obligated active service. The Secretary (or his designee) may accept an active service agreement under this section not more than one year in ad-

vance of the end of an officer's existing period of obligated active service under such an agreement. In such a case, the amount of the special pay may be paid commencing with the date of acceptance of the agreement, with the number of installments being equal to the number of years covered by the contract plus one'' for ''shall become fixed and shall be paid in four equal yearly installments, commencing at the expiration of the initial obligated service; except, the Secretary or his designee may accept the active-service agreement not more than one year in advance of the expiration of the initial obligated active service and the amount may then be paid in five yearly installments, not to exceed $5,600 per year, commencing with the date of acceptance of the agreement''.

Subsec. (a)(2) to (4). Pub. L. 99–145, § 632(a)(1)(A)–(C), inserted ''and'' at end of cl. (2), redesignated cl. (4) as (3) and substituted ''for a period of three, four, or five years, so long as the new period of obligated active service does not extend beyond the end of 26 years of commissioned service,'' for ''for one period of four years'', and struck out former cl. (3) which related to an officer of the naval service who had not completed ten years of commissioned service.

Subsec. (b). Pub. L. 99–145, § 632(a)(2), (3), redesignated subsec. (c) as (b), struck out ''of four years'' after ''complete the full period'', and struck out former subsec. (b) which provided that no more than one agreement for each officer would be accepted under this section.

Subsec. (c). Pub. L. 99–145, § 632(a)(4), redesignated subsec. (d) as (c), and substituted ''additional period of active service under this section shall in no way obligate the President to accept a resignation submitted by a regular officer.'' for ''additional period of four years' active service under this section shall in no way obligate the President to accept a resignation submitted by a regular officer at the end of the four-year period.'' Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 99–145, § 632(a)(5), added subsec. (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 99–145, § 632(a)(6), substituted ''September 30, 1990'' for ''September 30, 1987''.

1980—Subsec. (a). Pub. L. 96–579, § 2(a)(1), substituted ''$7,000'' and ''$5,600'' for ''$5,000'' and ''$4,000'', respectively.

Pub. L. 96–513 redesignated cls. (3) to (5) as (2) to (4), respectively. Former cl. (2) was repealed by Pub. L. 92–581, § 1(2)(A), Oct. 27, 1972, 86 Stat. 1277.

Subsec. (e). Pub. L. 96–579, § 2(a)(2), substituted ''September 30, 1987'' for ''September 30, 1981''.

1976—Subsec. (a). Pub. L. 94–356, § 2(1), substituted ''$5,000'' for ''$3,750'' and ''$4,000'' for ''$3,000''.

Subsec. (e). Pub. L. 94–356, § 2(2), substituted ''September 30, 1981'' for ''June 30, 1975''.

1972—Pub. L. 92–581, § 1(1), struck out ''submarine'' in section catchline.

Subsec. (a)(2). Pub. L. 92–581, § 1(2)(A), struck out cl. (2) which referred to officers of the naval service currently designated ''qualified in submarines''.

Subsec. (a)(5). Pub. L. 92–581, § 1(2)(B), substituted ''on active duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants'', for ''in active submarine service''.

Subsec. (c). Pub. L. 92–581, § 1(2)(C), substituted ''duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants'', for ''submarine service''.

Subsec. (d). Pub. L. 92–581, § 1(2)(D), struck out ''submarine''.

Subsec. (e). Pub. L. 92–581, § 1(2)(E), substituted ''1975'' for ''1973''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 613(a) of Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, § 624(d)(1), Oct. 5, 1999, 113 Stat. 654, provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 312b of this title] shall take effect on October 1, 1999, and shall apply to agreements under section 312 or 312b of such title entered into on or after that date.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 624(d) of Pub. L. 105–85 provided that:

''(1) The amendments made by this section [amending this section and sections 312b and 312c of this title] shall take effect as of October 1, 1997.

''(2) The amendments made by subsections (a) and (b) [amending this section and section 312b of this title] shall apply with respect to agreements accepted under sections 312(a) and 312b(a), respectively, of title 37, United States Code, on or after October 1, 1997.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 632(d) of Pub. L. 99–145 provided that: ''The amendments made by this section [amending this section and sections 312b and 312c of this title] shall take effect on October 1, 1985.''

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 2(d)(1) of Pub. L. 96–579 provided: ''The amendments made by subsection (a)(1) [amending this section] shall apply only with respect to active-duty agreements under section 312 of title 37, United States Code, executed on or after the first day of the first month following the month in which this section is enacted [Dec. 1980].''

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 5 of Pub. L. 94–356 provided that: ''This Act [enacting section 312b of this title, amending this section, and enacting provisions set out as notes under this section and section 301 of this title] becomes effective on the first day of the first month after enactment [Aug. 1, 1976], except that section 312c of title 37, United States Code, as added by this Act, is effective as of October 1, 1975.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

EFFECT OF AMENDMENT BY PUB. L. 110–181 ON EXISTING AGREEMENTS

Pub. L. 110–181, div. A, title VI, § 621(b), Jan. 28, 2008, 122 Stat. 152, provided that: ''The Secretary of the Navy and an officer of the naval service who is a party to an agreement under section 312 of title 37, United States Code, that was entered into before the date of the enactment of this Act [Jan. 28, 2008] may revise the agreement to reflect the new limitation on the number of years of commissioned service that the officer may serve while remaining eligible for special pay under such section.''

ACTIVE SERVICE AGREEMENTS FOR NUCLEAR QUALIFIED OFFICERS

Pub. L. 97–60, title I, § 118, Oct. 14, 1981, 95 Stat. 997, provided that: ''Notwithstanding subsections (a) and (b)

of section 312 of title 37, United States Code, and under regulations prescribed by the Secretary of the Navy, the Secretary of the Navy may permit an officer of the naval service who is performing obligated service as the result of an active-service agreement executed under such section before January 1, 1981, to cancel that active-service agreement effective on the day before an anniversary of the day on which that agreement was executed and execute a new active-service agreement under such section for one period of four years. Any such cancellation of an existing agreement and execution of a new agreement may be effective on the day before an anniversary date occurring on or after January 1, 1981.''

EXCHANGE OF ACTIVE SERVICE AGREEMENTS BY NAVAL OFFICERS

Section 4 of Pub. L. 94–356 provided that: ''Notwithstanding any other provision of this Act [enacting section 312b and 312c of this title, amending this section, and enacting provisions set out as notes under this section and section 301 of this title] or any other provision of law, and under regulations prescribed by the Secretary of the Navy, an officer of the naval service who, on or after the effective date of this Act [see Effective Date of 1976 Amendment above], is, or will be, performing obligated service as the result of an active service agreement executed in accordance with section 312 of title 37, United States Code as it existed at any time before the effective date of this Act, may be permitted—

''(1) as of the last day of the first year of that obligated service, to cancel that active service agreement in exchange for a new active service agreement in accordance with section 312 of title 37, as amended by this Act; or

''(2) as of the last day of any year, other than the last year, of that obligated service, to cancel that active service agreement in exchange for eligibility for the annual bonus authorized by section 312c of title 37, as added by this Act, and an agreement to remain on active duty for a period of time equal to the period of obligated service remaining under that active service agreement.''

**[§312a. Repealed. Pub. L. 109–163, div. A, title VI, §629(d)(1), Jan. 6, 2006, 119 Stat. 3297]**

Section, added Pub. L. 92–581, §1(3), Oct. 27, 1972, 86 Stat. 1277; amended Pub. L. 97–295, §3(3), Oct. 12, 1982, 96 Stat. 1303; Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117, related to special pay for nuclear-trained and qualified enlisted members.

## §312b. Special pay: nuclear career accession bonus

(a)(1) Under regulations prescribed by the Secretary of the Navy, an individual who is selected for officer naval nuclear power training and who executes a written agreement to participate in a program of training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants may be paid a bonus not to exceed $30,000 upon acceptance by the Secretary of the written agreement. Upon acceptance of the agreement by the Secretary, the amounts payable upon selection for training and upon completion of training, respectively, as determined under subsection (b), shall become fixed.

(2) An officer who does not commence or complete satisfactorily the nuclear power training specified in the agreement under paragraph (1) shall be subject to the repayment provisions of section 303a(e) of this title.

(b) The Secretary of the Navy shall determine annually the total amount of the bonus to be paid under this section and of that amount the portions that are to be paid—

(1) upon selection for officer naval nuclear power training; and

(2) upon successful completion, as a commissioned officer, of training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

(c) The provisions of this section shall be effective only in the case of officers who, on or before December 31, 2010, have been accepted for training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

(Added Pub. L. 94–356, §3, July 12, 1976, 90 Stat. 901; amended Pub. L. 96–579, §2(b), Dec. 23, 1980, 94 Stat. 3359; Pub. L. 97–60, title I, §119, Oct. 14, 1981, 95 Stat. 997; Pub. L. 99–145, title VI, §632(b), title XIII, §1303(b)(4), Nov. 8, 1985, 99 Stat. 644, 740; Pub. L. 101–189, div. A, title VI, §614(b), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 101–510, div. A, title XIII, §1322(c)(7), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103–337, div. A, title VI, §613(h), Oct. 5, 1994, 108 Stat. 2784; Pub. L. 104–106, div. A, title VI, §613(f), Feb. 10, 1996, 110 Stat. 360; Pub. L. 104–201, div. A, title VI, §613(e), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105–85, div. A, title VI, §§613(e), 624(b), Nov. 18, 1997, 111 Stat. 1786, 1793; Pub. L. 105–261, div. A, title VI, §613(e), Oct. 17, 1998, 112 Stat. 2039; Pub. L. 106–65, div. A, title VI, §§613(f), 624(b), Oct. 5, 1999, 113 Stat. 650, 654; Pub. L. 106–398, §1 [[div. A], title VI, §623(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–152; Pub. L. 107–107, div. A, title VI, §613(b), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 107–314, div. A, title VI, §613(b), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 108–136, div. A, title VI, §613(b), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, §613(b), Oct. 28, 2004, 118 Stat. 1947; Pub. L. 109–163, div. A, title VI, §§623(b), 687(b)(22), Jan. 6, 2006, 119 Stat. 3295, 3331; Pub. L. 109–364, div. A, title VI, §§613(b), 619(a), Oct. 17, 2006, 120 Stat. 2248, 2252; Pub. L. 110–181, div. A, title VI, §613(b), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title VI, §613(b), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111–84, div. A, title VI, §613(2), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (c). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (a)(1). Pub. L. 109–364, §619(a), substituted ''$30,000'' for ''$20,000''.

Subsec. (a)(2). Pub. L. 109–163, §687(b)(22), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Under such regulations, and subject to such exceptions, as the Secretary of the Navy may prescribe, an individual who has entered into an agreement with the Secretary under this subsection, who has been paid a bonus under this subsection, and who fails to commence or satisfactorily complete the nuclear power training specified in the agreement shall be required to refund such bonus.''

Subsec. (c). Pub. L. 109–364, § 613(b), substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, § 623(b), substituted ''December 31, 2006'' for ''December 31, 2005''.

2004—Subsec. (c). Pub. L. 108–375 substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (c). Pub. L. 108–136 substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (c). Pub. L. 107–314 substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (c). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

2000—Subsec. (c). Pub. L. 106–398 substituted ''December 31, 2001'' for ''December 31, 2000''.

1999—Subsec. (a)(1). Pub. L. 106–65, § 624(b), substituted ''$20,000'' for ''$10,000''.

Subsec. (c). Pub. L. 106–65, § 613(f), substituted ''December 31, 2000'' for ''December 31, 1999''.

1998—Subsec. (c). Pub. L. 105–261 substituted ''December 31, 1999'' for ''September 30, 1999''.

1997—Subsec. (a)(1). Pub. L. 105–85, § 624(b), substituted ''$10,000'' for ''$8,000''.

Subsec. (c). Pub. L. 105–85, § 613(e), substituted ''September 30, 1999'' for ''September 30, 1998''.

1996—Subsec. (c). Pub. L. 104–201 substituted ''September 30, 1998'' for ''September 30, 1997''.

Pub. L. 104–106 substituted ''September 30, 1997'' for ''September 30, 1996''.

1994—Subsec. (c). Pub. L. 103–337 substituted ''September 30, 1996'' for ''September 30, 1995''.

1991—Subsec. (a)(1). Pub. L. 102–25 struck out ''of this section'' after ''subsection (b)''.

1990—Subsecs. (c), (d). Pub. L. 101–510 redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: ''The Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report containing data to monitor the effectiveness of the bonus authorized by subsections (a) and (b) of this section.''

1989—Subsec. (d). Pub. L. 101–189 substituted ''September 30, 1995'' for ''September 30, 1990''.

1985—Subsec. (a)(1). Pub. L. 99–145, § 632(b)(1), substituted ''not to exceed $8,000'' for ''of $3,000'', and inserted provision that upon acceptance of the agreement by the Secretary, the amounts payable upon selection for training and upon completion of training, respectively, as determined under subsection (b) of this section, shall become fixed.

Subsec. (b). Pub. L. 99–145, § 632(b)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Under regulations prescribed by the Secretary of the Navy, an officer of the naval service who—

''(1) is entitled to basic pay;

''(2) has not completed five years of commissioned service; and

''(3) has, as a commissioned officer, received training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants;

may, upon successful completion of that training, in addition to all other compensation to which he is entitled, be paid a bonus in an amount not to exceed $3,000.''

Subsec. (c). Pub. L. 99–145, § 1303(b)(4), substituted ''submit to the Committees on Armed Services of the Senate and House of Representatives an annual report'' for ''make an annual report to the House and Senate Armed Services Committees''.

Subsec. (d). Pub. L. 99–145, § 632(b)(3), substituted ''September 30, 1990'' for ''September 30, 1987''.

1981—Subsec. (a)(1). Pub. L. 97–60 substituted ''naval nuclear propulsion plants'' for ''naval nuclear submarine propulsion plants''.

1980—Subsec. (a). Pub. L. 96–579, § 2(b)(1)(B), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 96–579, § 2(b)(1)(A), redesignated former subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 96–579, § 2(b)(1)(A), (2), redesignated former subsec. (b) as (c) and inserted reference to the bonus authorized by subsec. (b) of this section. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 96–579, § 2(b)(1)(A), (3), redesignated former subsec. (c) as (d) and substituted ''September 30, 1987'' for ''September 30, 1981''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title VI, § 619(b), Oct. 17, 2006, 120 Stat. 2252, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2006, and shall apply to agreements entered into or revised under section 312b of title 37, United States Code, on or after that date.''

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 624(b) of Pub. L. 106–65 effective Oct. 1, 1999, and applicable to agreements under this section or section 312 of this title entered into on or after that date, see section 624(d)(1) of Pub. L. 106–65, set out as a note under section 312 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 624(b) of Pub. L. 105–85 effective Oct. 1, 1997, and applicable with respect to agreements accepted under subsec. (a) of this section on or after Oct. 1, 1997, see section 624(d) of Pub. L. 105–85, set out as a note under section 312 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–145 effective Oct. 1, 1985, see section 632(d) of Pub. L. 99–145, set out as a note under section 312 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 2(d)(2) of Pub. L. 96–579 provided: ''The amendments made by subsection (b)(1) [amending this section] shall apply only with respect to agreements executed under section 312b(a) of title 37, United States Code, executed on or after the first day of the first month following the month in which this section is enacted [December 1980].''

EFFECTIVE DATE

Section effective Aug. 1, 1976, see section 5 of Pub. L. 94–356, set out as an Effective Date of 1976 Amendment note under section 312 of this title.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

## § 312c. Special pay: nuclear career annual incentive bonus

(a)(1) Under regulations prescribed by the Secretary of the Navy, an officer of the naval service who—

(A) is entitled to basic pay;

(B) is not above the pay grade O–6;

(C) has completed his initial obligated active service as an officer;

(D) has, as a commissioned officer, successfully completed training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; and

(E) has the current technical qualifications for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants;

may, in addition to all other compensation to which he is entitled, be paid an annual bonus in an amount not to exceed $22,000 for each nuclear service year.

(2) In order to be eligible for an annual bonus for any nuclear service year in accordance with this subsection, an otherwise technically qualified officer must have been on active duty on the last day of that nuclear service year.

(3) The amount of the annual bonus to which an officer would otherwise be entitled for a nuclear service year in accordance with this subsection shall be reduced on a pro rata basis for each day of that nuclear service year on which he—

(A) was not on active duty;

(B) was not technically qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants;

(C) was performing obligated service as the result of an active-service agreement executed under section 312 of this title; or

(D) was entitled to receive aviation career incentive pay in accordance with section 301a while serving in a billet other than a billet that required the officer—

(i) be technically qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; and

(ii) be qualified for the performance of operational flying duties.

(b)(1) Under regulations prescribed by the Secretary of the Navy, an officer of the naval service who—

(A) is entitled to basic pay;

(B) is not above the pay grade O–6;

(C) has, as an enlisted member, received training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; and

(D) has the current technical qualifications for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants;

may, in addition to all other compensation to which he is entitled, be paid an annual bonus in an amount not to exceed $14,000 for each nuclear service year.

(2) In order to be eligible for an annual bonus for any nuclear service year in accordance with this subsection, an otherwise technically qualified officer must have been on active duty on the last day of that nuclear service year.

(3) The amount of the annual bonus to which an officer would otherwise be entitled in accordance with this subsection shall be reduced on a pro rata basis for each day of that nuclear service year on which he—

(A) was not in an assignment involving the direct supervision, operation, or maintenance of naval nuclear propulsion plants;

(B) was performing obligated service as the result of an active-service agreement executed under section 312 of this title; or

(C) was entitled to receive aviation career incentive pay in accordance with section 301a while serving in a billet other than a billet—

(i) involving the direct supervision, operation, or maintenance of naval nuclear propulsion plants; and

(ii) that required the officer be qualified for the performance of operational flying duties.

(c) Under regulations prescribed by the Secretary of the Navy, an officer of the naval service who is not on active duty on the last day of a nuclear service year or who, on or before the last day of a nuclear service year, loses his technical qualifications or advances from the pay grade of O–6 to a higher pay grade may be paid a bonus in accordance with subsection (a) or (b) on a pro rata basis, if otherwise qualified, unless termination of active duty or loss of technical qualifications was voluntary or was the result of his own misconduct.

(d) For the purposes of this section, a ''nuclear service year'' is any fiscal year beginning before December 31, 2010.

(Added Pub. L. 94–356, § 3, July 12, 1976, 90 Stat. 901; amended Pub. L. 96–513, title V, § 516(9), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96–579, § 2(c), Dec. 23, 1980, 94 Stat. 3359; Pub. L. 99–145, title VI, § 632(c), Nov. 8, 1985, 99 Stat. 645; Pub. L. 101–189, div. A, title VI, § 614(c), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 101–510, div. A, title XIII, § 1322(c)(8), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103–337, div. A, title VI, § 613(i), Oct. 5, 1994, 108 Stat. 2784; Pub. L. 104–106, div. A, title VI, § 613(g), Feb. 10, 1996, 110 Stat. 360; Pub. L. 104–201, div. A, title VI, § 613(f), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105–85, div. A, title VI, §§ 613(f), 624(c), Nov. 18, 1997, 111 Stat. 1786, 1793; Pub. L. 105–261, div. A, title VI, § 613(f), Oct. 17, 1998, 112 Stat. 2039; Pub. L. 106–65, div. A, title VI, §§ 613(g), 624(c), Oct. 5, 1999, 113 Stat. 650, 654; Pub. L. 106–398, § 1 [[div. A], title VI, § 623(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–152; Pub. L. 107–107, div. A, title VI, § 613(c), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 107–314, div. A, title VI, § 613(c), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 108–136, div. A, title VI, § 613(c), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, § 613(c), Oct. 28, 2004, 118 Stat. 1947; Pub. L. 109–163, div. A, title VI, §§ 623(c), 638, Jan. 6, 2006, 119 Stat. 3295, 3301; Pub. L. 109–364, div. A, title VI, § 613(c), Oct. 17, 2006, 120 Stat. 2248; Pub. L. 110–181, div. A, title VI, § 613(c), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title VI, § 613(c), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111–84, div. A, title VI, § 613(3), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (d). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (d). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (b)(1). Pub. L. 109–163, § 638, substituted ''$14,000'' for ''$10,000'' in concluding provisions.

Subsec. (d). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, § 623(c), substituted ''December 31, 2006'' for ''December 31, 2005''.

2004—Subsec. (d). Pub. L. 108–375 substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (d). Pub. L. 108–136 substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (d). Pub. L. 107–314 substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (d). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

2000—Subsec. (d). Pub. L. 106–398 substituted ''December 31, 2001'' for ''December 31, 2000''.

1999—Subsec. (a)(1). Pub. L. 106–65, § 624(c)(1), substituted ''$22,000'' for ''$12,000'' in concluding provisions.

Subsec. (b)(1). Pub. L. 106–65, § 624(c)(2), substituted ''$10,000'' for ''$5,500'' in concluding provisions.

Subsec. (d). Pub. L. 106–65, § 613(g), substituted ''December 31, 2000.'' for ''October 1, 1998, and the 15-month period beginning on that date and ending on December 31, 1999.''

1998—Subsec. (d). Pub. L. 105–261 substituted ''October 1, 1998, and the 15-month period beginning on that date and ending on December 31, 1999'' for ''October 1, 1999''.

1997—Subsec. (a)(1). Pub. L. 105–85, § 624(c)(1), substituted ''$12,000'' for ''$10,000'' in concluding provisions.

Subsec. (b)(1). Pub. L. 105–85, § 624(c)(2), substituted ''$5,500'' for ''$4,500'' in concluding provisions.

Subsec. (d). Pub. L. 105–85, § 613(f), substituted ''October 1, 1999'' for ''October 1, 1998''.

1996—Subsec. (d). Pub. L. 104–201 substituted ''October 1, 1998'' for ''October 1, 1997''.

Pub. L. 104–106 substituted ''October 1, 1997'' for ''October 1, 1996''.

1994—Subsec. (d). Pub. L. 103–337 substituted ''October 1, 1996'' for ''October 1, 1995''.

1991—Subsec. (c). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a) or (b)''.

1990—Subsecs. (d), (e). Pub. L. 101–510 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: ''The Secretary of the Navy shall make an annual report to the Committees on Armed Services of the Senate and House of Representatives containing data to monitor the effectiveness of the bonuses authorized by subsections (a) and (b) of this section.''

1989—Subsecs. (a)(1), (b)(1). Pub. L. 101–189, § 614(c)(1), struck out ''ending before October 1, 1990'' before period at end.

Subsec. (e). Pub. L. 101–189, § 614(c)(2), substituted ''October 1, 1995'' for ''October 1, 1990''.

1985—Subsec. (a). Pub. L. 99–145, § 632(c)(1), designated first sentence as par. (1), redesignated cls. (1) to (5) as (A) to (E), respectively, struck out '', but has completed less than twenty-six years of commissioned service'' after ''officer'' in cl. (C), and substituted ''$10,000'' and ''October 1, 1990'' for ''$6,000'' and ''October 1, 1987'', respectively; designated second sentence as par. (2) and inserted ''technically'' before ''qualified''; designated third sentence as par. (3) and substituted cls. (A) to (D) for provision that the annual bonus be reduced pro rata each day of a nuclear service year that an officer was not on active duty; was not qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; was performing obligated service as the result of an active-service agreement executed under section 312 of this title; or was entitled to receive aviation career incentive pay in accordance with section 301a of this title; and struck out fourth sentence relating to conditions authorizing a further pro rata reduction in the amount of the annual bonus in the case of an officer with more than ten, but not more than eighteen, years of commissioned service, an officer with more than eighteen, but not more than twenty-five, years of commissioned service, and an officer with more than twenty-five, but not more than twenty-six, years of commissioned service.

Subsec. (b). Pub. L. 99–145, § 632(c)(2), designated first sentence as par. (1), redesignated cls. (1) to (4) as cls. (A) to (D), respectively, and in provision following cl. (D) substituted ''$4,500'' and ''October 1, 1990'' for ''$3,500'' and ''October 1, 1987'', respectively; designated second sentence as par. (2) and inserted ''technically'' before ''qualified''; designated third sentence as par. (3) and substituted cls. (A) to (D) for provision that the annual bonus be reduced pro rata for each day of a nuclear service year that an officer was not in an assignment involving the direct supervision, operation, or maintenance of naval nuclear propulsion plants; was performing obligated service as the result of an active service agreement executed under section 312 of this title; or was entitled to receive aviation career incentive pay in accordance with section 301a of this title.

Subsec. (e). Pub. L. 99–145, § 632(c)(3), substituted ''October 1, 1990'' for ''October 1, 1987''.

1980—Subsec. (a). Pub. L. 96–579, § 2(c)(1), substituted ''$6,000 for each nuclear service year ending before October 1, 1987'' for ''$4,000 for each nuclear service year beginning after September 30, 1975, and ending before October 1, 1981''.

Pub. L. 96–513, § 516(9)(A), substituted ''title. However'' for ''title: *Provided*, That''.

Subsec. (b). Pub. L. 96–579, § 2(c)(2), substituted ''$3,500 for each nuclear service year ending before October 1, 1987'' for ''$2,400 for each nuclear service year beginning after September 30, 1975, and ending before October 1, 1981''.

Subsec. (d). Pub. L. 96–513, § 516(9)(B), substituted ''Committees on Armed Services of the Senate and House of Representatives'' for ''House and Senate Armed Service Committees''.

Subsec. (e). Pub. L. 96–579, § 2(c)(3), substituted as definition for ''nuclear service year'' any fiscal year beginning before Oct. 1, 1987 for the one-year period from Oct. 1, 1975, through Sept. 30, 1976, or any fiscal year beginning after Sept. 30, 1976, and before Oct. 1, 1981.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, § 624(d)(2), Oct. 5, 1999, 113 Stat. 654, provided that: ''The amendments made by subsection (c) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to nuclear service years beginning on or after that date.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 624(c) of Pub. L. 105–85 effective Oct. 1, 1997, see section 624(d) of Pub. L. 105–85, set out as a note under section 312 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–145 effective Oct. 1, 1985, see section 632(d) of Pub. L. 99–145, set out as a note under section 312 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 2(d)(3) of Pub. L. 96–579 provided: ''The amendments made by subsection (c) [amending this section] shall become effective on the first day of the first month following the month in which this section is enacted [December 1980].''

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE

Section effective Oct. 1, 1975, see section 5 of Pub. L. 94–356, set out as an Effective Date of 1976 Amendment note under section 312 of this title.

**[§313. Repealed. Pub. L. 96–513, title IV, §414(a), Dec. 12, 1980, 94 Stat. 2906]**

Section, added Pub. L. 93–274, §1(4), May 6, 1974, 88 Stat. 95; amended Pub. L. 94–273, §43, Apr. 21, 1976, 90 Stat. 381; Pub. L. 96–107, title VIII, §804(b), Nov. 9, 1979, 93 Stat. 812; Pub. L. 96–284, §3(b)(1)–(5), June 28, 1980, 94 Stat. 590, 591, related to special pay for medical officers of the Public Health Service who execute active duty agreements.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1981 Amendment note under section 101 of Title 10, Armed Forces.

**§314. Special pay or bonus: qualified members extending duty at designated locations overseas**

(a) COVERED MEMBERS.—This section applies with respect to a member of an armed force who—

(1) is entitled to basic pay;

(2) has a specialty that is designated by the Secretary concerned for the purposes of this section;

(3) has completed a tour of duty (as defined in accordance with regulations prescribed by the Secretary concerned) at a location outside the continental United States that is designated by the Secretary concerned for the purposes of this section; and

(4) at the end of that tour of duty executes an agreement to extend that tour for a period of not less than one year.

(b) SPECIAL PAY OR BONUS AUTHORIZED.—Upon the acceptance by the Secretary concerned of the agreement providing for an extension of the tour of duty of a member described in subsection (a), the member is entitled, at the election of the Secretary concerned, to either—

(1) special pay in monthly installments in an amount prescribed by the Secretary, but not to exceed $80 per month; or

(2) an annual bonus in an amount prescribed by the Secretary, but not to exceed $2,000 per year.

(c) SELECTION AND PAYMENT OF SPECIAL PAY OR BONUS.—Not later than the date on which the Secretary concerned accepts an agreement described in subsection (a)(4) providing for the extension of a member's tour of duty, the Secretary concerned shall notify the member regarding whether the member will receive special pay or a bonus under this section. The payment rate for the special pay or bonus shall be fixed at the time of the agreement and may not be changed during the period of the extended tour of duty. The Secretary concerned may pay a bonus under this section either in a lump sum or installments.

(d) REPAYMENT.—A member who, having entered into a written agreement to extend a tour of duty for a period under subsection (a), receives a bonus payment under subsection (b)(2) for a 12-month period covered by the agreement and ceases during that 12-month period to perform the agreed tour of duty shall be subject to the repayment provisions of section 303a(e) of this title.

(e) EFFECT OF REST AND RECUPERATIVE ABSENCE.—A member who elects to receive one of the benefits specified in section 705(b) of title 10 as part of the extension of a tour of duty is not entitled to the special pay authorized by subsection (b)(1) for the period of the extension of duty for which the benefit under such section is provided.

(Added Pub. L. 96–579, §5(a)(1), Dec. 23, 1980, 94 Stat. 3366; amended Pub. L. 99–145, title VI, §641(a), Nov. 8, 1985, 99 Stat. 652; Pub. L. 105–85, div. A, title VI, §625(a)(1), Nov. 18, 1997, 111 Stat. 1794; Pub. L. 107–314, div. A, title VI, §654(b)(1), Dec. 2, 2002, 116 Stat. 2582; Pub. L. 108–136, div. A, title VI, §621(a)(1), (2)(A), Nov. 24, 2003, 117 Stat. 1505; Pub. L. 109–163, div. A, title VI, §687(b)(23), Jan. 6, 2006, 119 Stat. 3331.)

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsec. (d)(4), is the date of enactment of Pub. L. 105–85, which was approved Nov. 18, 1997.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–163 amended heading and text of subsec. (d) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when member receives bonus payment but fails to complete agreed upon extended tour of duty.

2003—Pub. L. 108–136, §621(a)(2)(A), substituted "qualified members" for "qualified enlisted members" in section catchline.

Subsecs. (a), (b). Pub. L. 108–136, §621(a)(1), substituted "a member" for "an enlisted member" in introductory provisions.

2002—Subsec. (a)(3). Pub. L. 107–314 substituted "the continental United States" for "the 48 contiguous States and the District of Columbia".

1997—Pub. L. 105–85 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) and (b) relating to special pay for qualified enlisted members extending duty at designated locations overseas.

1985—Subsec. (a). Pub. L. 99–145 substituted "$80" for "$50" in provision following par. (4).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 625(b) of Pub. L. 105–85 provided that: "Section 314 of title 37, United States Code, as amended by subsection (a), shall apply with respect to an agreement to extend a tour of duty as provided in such section executed on or after October 1, 1997."

EFFECTIVE DATE OF 1985 AMENDMENT

Section 641(b) of Pub. L. 99–145 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1985."

EFFECTIVE DATE

Section 5(c)(1) of Pub. L. 96–579 provided: "Section 314 of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month following the month in which this section is enacted [Dec. 1980] and shall apply to periods of extended duty overseas beginning before, on, or after such date, but

no payment may be made under such section for any month before the first day of the first month following the month in which this section is enacted.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

## § 315. Special pay: engineering and scientific career continuation pay

(a) In this section, the term ''engineering or scientific duty'' means service performed by an officer—

(1) that requires an engineering or science degree; and

(2) that requires a skill designated (under regulations prescribed by the Secretary of Defense for the armed forces, by the Secretary of Commerce for the National Oceanic and Atmospheric Administration, or by the Secretary of Health and Human Services for the Public Health Service) as critical and as a skill in which there is a critical shortage of officers in the uniformed service concerned.

(b) Under regulations prescribed by the Secretary concerned, an officer of a[1] uniformed service who—

(1) is entitled to basic pay;

(2) is below the pay grade of O–7;

(3) holds a degree in engineering or science from an accredited college or university;

(4) has been certified by the Secretary concerned as having the technical qualifications for detail to engineering or scientific duty;

(5) has completed at least three but less than nineteen years of engineering or scientific duty as an officer; and

(6) executes a written agreement to remain on active duty for detail to engineering or scientific duty for at least one year, but not more than four years;

may, upon acceptance of the written agreement by the Secretary concerned, be paid, in addition to all other compensation to which the officer is entitled, an amount not to exceed $3,000 multiplied by the number of years, or monthly fraction thereof, of obligated service to which the officer agrees under the agreement. The total amount payable may be paid in a lump sum or in equal periodic installments, as determined by the Secretary concerned.

(c) An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.

(Added Pub. L. 97–60, title I, § 120(a), Oct. 14, 1981, 95 Stat. 998; amended Pub. L. 99–145, title VI, § 637(a), Nov. 8, 1985, 99 Stat. 648; Pub. L. 100–26, § 8(e)(6), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 109–163, div. A, title VI, § 687(b)(24), Jan. 6, 2006, 119 Stat. 3331.)

[1] So in original. Probably should be ''an''.

AMENDMENTS

2006—Subsec. (c). Pub. L. 109–163 amended subsec. (c) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when officer receives bonus but fails to complete agreed upon period of active duty.

1991—Subsec. (c). Pub. L. 102–25 struck out ''of this section'' after ''subsection (b)'' in two places in par. (1) and struck out ''of this subsection'' after ''paragraph (1)'' in pars. (2) to (4) and after ''paragraph (3)'' in par. (2).

1987—Subsec. (a). Pub. L. 100–26 inserted ''the term'' after ''In this section,''.

1985—Subsec. (a). Pub. L. 99–145, § 637(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''In this section, the term 'engineering or scientific duty' means service performed by an officer that requires an engineering or science degree and that requires a skill designated under regulations prescribed by the Secretary of Defense as critical and as a skill in which there is a critical shortage of officers in the armed force concerned.''

Subsec. (b). Pub. L. 99–145, § 637(a)(2), in provision preceding par. (1), substituted ''prescribed by the Secretary concerned'' for ''prescribed by the Secretary of Defense'' and ''officer of a uniformed service'' for ''officer of an armed force''.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 637(b) of Pub. L. 99–145 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1985.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

## § 316. Special pay: bonus for members with foreign language proficiency

(a) AVAILABILITY OF BONUS.—Subject to subsection (c), the Secretary concerned may pay a bonus under this section to a member of the uniformed services who—

(1) is qualified in a uniformed services specialty requiring proficiency in a foreign language identified by the Secretary concerned as a foreign language in which it is necessary to have personnel proficient because of national defense or public health considerations;

(2) received training, under regulations prescribed by the Secretary concerned, designed to develop a proficiency in such a foreign language;

(3) is assigned to duties requiring a proficiency in such a foreign language; or

(4) is proficient in a foreign language for which the uniformed service may have a critical need, as determined by the Secretary concerned.

(b) BONUS AMOUNT; TIME FOR PAYMENT.—A bonus under subsection (a) may not exceed $12,000 per one-year certification period under subsection (c). The Secretary concerned may

pay the bonus in a single lump sum at the beginning of the certification period or in installments during the certification period. The bonus is in addition to any other pay or allowance payable to a member under any other provision of law.

(c) CERTIFICATION OF PROFICIENCY.—To be eligible to receive a bonus under this section, a member described in subsection (a) must be certified by the Secretary concerned as being proficient in the foreign language for which the bonus is offered. The certification of the member shall expire at the end of the one-year period beginning on the first day of the first month beginning on or after the certification date.

(d) CERTIFICATION INTERRUPTED BY CONTINGENCY OPERATION.—(1) Notwithstanding subsection (c), the Secretary concerned may waive the certification requirement under such subsection and pay a bonus under this section to a member who—

(A) is assigned to duty in connection with a contingency operation;

(B) is unable to schedule or complete the certification required by subsection (c) because of that assignment; and

(C) except for the lack of such certification, satisfies the eligibility requirements under subsection (a).

(2) The Secretary concerned may treat the date on which the member was assigned to duty in connection with the contingency operation as equivalent to a certification date. In the case of a member whose certification will expire during such a duty assignment, the Secretary shall commence the next one-year certification period on the date on which the prior certification period expires.

(3) A member who is paid a bonus under the authority of this subsection shall complete the certification required by subsection (c) for the foreign language for which the bonus was paid not later than the end of the 180-day period beginning on the date on which the member is released from the assignment in connection with the contingency operation. The Secretary concerned may extend that period for a member in accordance with regulations prescribed under subsection (f).

(4) If a member fails to obtain the required certification under subsection (c) before the end of the period provided under paragraph (3), the Secretary concerned may require the member to repay all or a portion of the bonus in the manner provided in section 303a(e) of this title.

(e) REPAYMENT.—A member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, shall be subject to the repayment provisions of section 303a(e) of this title.

(f) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary, by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy, by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration.

(Added Pub. L. 99–661, div. A, title VI, §634(a)(1), Nov. 14, 1986, 100 Stat. 3884; amended Pub. L. 104–201, div. A, title VI, §616(a), (b), Sept. 23, 1996, 110 Stat. 2547; Pub. L. 106–65, div. A, title VI, §625(a), Oct. 5, 1999, 113 Stat. 654; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–375, div. A, title VI, §620(a)(1), Oct. 28, 2004, 118 Stat. 1952; Pub. L. 109–163, div. A, title VI, §§639(a)–(e)(1), 687(b)(25), Jan. 6, 2006, 119 Stat. 3301, 3302, 3331.)

AMENDMENTS

2006—Pub. L. 109–163, §639(e)(1), substituted ''Special pay: bonus for members with foreign language proficiency'' for ''Special pay and bonus for members with foreign language proficiency'' in section catchline.

Subsec. (a). Pub. L. 109–163, §639(a), substituted ''Bonus'' for ''Special Pay'' in heading and, in introductory provisions, substituted ''a bonus'' for ''monthly special pay'' and struck out ''is entitled to basic pay under section 204 of this title and who'' after ''uniformed services who''.

Subsec. (b). Pub. L. 109–163, §639(b)(1), (3), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''Subject to subsection (c), the Secretary concerned may pay an annual bonus under this section to a member of a reserve component who satisfies the eligibility requirements specified in paragraph (1), (2), (3), or (4) of subsection (a).''

Subsec. (c). Pub. L. 109–163, §639(d)(1), struck out ''special pay or'' before ''a bonus under'' and before ''bonus is offered'' and struck out ''or (b)'' before ''must be certified''.

Subsec. (d). Pub. L. 109–163, §639(b)(1), (2), redesignated subsec. (f) as (d) and struck out heading and text of former subsec. (d). Text read as follows:

''(1) The monthly rate for special pay paid under subsection (a) may not exceed $1,000.

''(2) The maximum amount of the bonus paid to a member under subsection (b) may not exceed $6,000 for the one-year period covered by the certification of the member. The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments during the certification period.''

Subsec. (d)(1). Pub. L. 109–163, §639(d)(2)(A)(i), struck out ''monthly special pay or'' before ''a bonus under'' in introductory provisions.

Subsec. (d)(1)(C). Pub. L. 109–163, §639(d)(2)(A)(ii), substituted ''under subsection (a)'' for ''for receipt of special pay under subsection (a) or a bonus under subsection (b), whichever applies to the member''.

Subsec. (d)(2). Pub. L. 109–163, §639(d)(2)(B), substituted ''The Secretary concerned'' for ''For purposes of providing an annual bonus to a member under the authority of this subsection, the Secretary concerned''.

Subsec. (d)(3). Pub. L. 109–163, §639(d)(2)(C), struck out ''special pay or'' before ''a bonus under'' and before ''bonus was paid'' and substituted ''subsection (f)'' for ''subsection (h)''.

Subsec. (d)(4). Pub. L. 109–163, §639(d)(2)(D), substituted ''section 303a(e) of this title'' for ''subsection (g)''.

Subsec. (e). Pub. L. 109–163, §687(b)(25), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows:

''(1) A member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, shall repay to the United States the amount of the bonus so paid, except as otherwise prescribed under paragraph (2).

''(2) The Secretary concerned shall prescribe in regulations whether repayment of an amount otherwise required under paragraph (1) shall be made in whole or in part, the method for computing the amount of such repayment, and any conditions under which an exception to required repayment would apply.

''(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the date on which the member received the bonus does not discharge the member from a debt arising under paragraph (1).''

Pub. L. 109–163, § 639(b)(1), (c), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows:

''(1) Except as provided in paragraph (2), special pay or a bonus paid under this section is in addition to any other pay or allowance payable to a member under any other provision of law.

''(2) If a member of a reserve component serving on active duty receives special pay under subsection (a) for any month occurring during a certification period in which the member received, or is receiving, a bonus under subsection (b), the amount of the special pay paid to the member for the month shall be reduced by an amount equal to 1/12 of the bonus amount.''

Subsec. (f). Pub. L. 109–163, § 639(b)(2), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (d).

Subsec. (g). Pub. L. 109–163, § 639(b)(1), struck out heading and text of subsec. (g). Text read as follows:

''(1) The Secretary concerned may require a member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, to repay to the United States an amount which bears the same ratio to the total amount of the bonus paid to the member as the unsatisfied portion of the certification period bears to the entire certification period.

''(2) An obligation to repay the United States imposed under paragraph (1) or subsection (f)(4) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered for the member less than five years after the expiration of the certification period does not discharge the member from a debt arising under this paragraph. This paragraph applies to any case commenced under title 11 after the date of the enactment of this section.''

Subsec. (h). Pub. L. 109–163, § 639(b)(2), redesignated subsec. (h) as (f).

2004—Pub. L. 108–375 amended section catchline and text generally, substituting provisions relating to special pay and bonus for members with foreign language proficiency for former provisions which related to: in subsec. (a) requirements for payment of special pay to member of uniformed services who is entitled to basic pay under section 204 of this title for foreign language proficiency; in subsec. (b) determination of monthly rate for special pay; in subsec. (c) increased compensation for member of reserve component who is entitled to compensation under section 206 of this title and who generally meets requirements in subsec. (a); and in subsec. (d) administration of section.

2002—Subsec. (d). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1999—Subsec. (b). Pub. L. 106–65 substituted ''$300'' for ''$100''.

1996—Subsec. (a). Pub. L. 104–201, § 616(a)(1), substituted ''uniformed services'' for ''armed forces'' in introductory provisions.

Subsec. (a)(2). Pub. L. 104–201, § 616(a)(2), substituted ''Secretary concerned as being'' for ''Secretary of Defense as being'' and inserted ''or public health'' after ''national defense''.

Subsec. (a)(3)(A). Pub. L. 104–201, § 616(a)(3)(A), substituted ''uniformed services'' for ''military''.

Subsec. (a)(3)(C). Pub. L. 104–201, § 616(a)(3)(B), struck out ''military'' before ''duties requiring''.

Subsec. (a)(3)(D). Pub. L. 104–201, § 616(a)(3)(C), substituted ''uniformed service'' for ''Department of Defense'' and ''Secretary concerned'' for ''Secretary of Defense''.

Subsec. (d). Pub. L. 104–201, § 616(b), substituted ''the jurisdiction of the Secretary,'' for ''his jurisdiction and'' and inserted before period at end '', by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, § 625(b), Oct. 5, 1999, 113 Stat. 654, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1999, and shall apply with respect to foreign language proficiency pay paid under section 316 of such title for months beginning on or after that date.''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 616(c) of Pub. L. 104–201 provided that: ''The amendments made by this section [amending this section] shall take effect on October 1, 1996, and apply with respect to months beginning on or after such date.''

EFFECTIVE DATE

Section 634(b) of Pub. L. 99–661 provided that: ''Section 316 of title 37, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Nov. 14, 1986], and shall apply with respect to pay periods beginning on or after that date.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

## § 316a. Special pay: incentive pay for members of precommissioning programs pursuing foreign language proficiency

(a) INCENTIVE PAY.—The Secretary of Defense may pay incentive pay under this section to an individual who—

(1) is enrolled as a member of the Senior Reserve Officers' Training Corps or the Marine Corps Platoon Leaders Class, as determined in accordance with regulations prescribed by the Secretary of Defense under subsection (e); and

(2) participates in a language immersion program approved for purposes of the Senior Reserve Officers' Training Corps, or in study abroad, or is enrolled in an academic course that involves instruction in a foreign language of strategic interest to the Department of Defense as designated by the Secretary of Defense for purposes of this section.

(b) PERIOD OF PAYMENT.—Incentive pay is payable under this section to an individual described in subsection (a) for the period of the individual's participation in the language program

or study described in paragraph (2) of that subsection.

(c) AMOUNT.—The amount of incentive pay payable to an individual under this section may not exceed $3,000 per year.

(d) REPAYMENT.—An individual who is paid incentive pay under this section but who does not satisfactorily complete participation in the individual's language program or study as described in subsection (a)(2), or who does not complete the requirements of the Senior Reserve Officers' Training Corps or the Marine Corps Platoon Leaders Class, as applicable, shall be subject to the repayment provisions of section 303a(e) of this title.

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

(f) REPORTS.—Not later than January 1, 2010, and annually thereafter through 2014, the Secretary of Defense shall submit to the Director of the Office of Management and Budget, and to Congress, a report on the payment of incentive pay under this section during the preceding fiscal year. Each report shall include, for the fiscal year covered by such report, the following:

(1) The number of individuals paid incentive pay under this section, the number of individuals commencing receipt of incentive pay under this section, and the number of individuals ceasing receipt of incentive pay under this section.

(2) The amount of incentive pay paid to individuals under this section.

(3) The aggregate amount recouped under section 303a(e) of this title in connection with receipt of incentive pay under this section.

(4) The languages for which incentive pay was paid under this section, including the total amount paid for each such language.

(5) The effectiveness of incentive pay under this section in assisting the Department of Defense in securing proficiency in foreign languages of strategic interest to the Department of Defense, including a description of how recipients of pay under this section are assigned and utilized following completion of the program of study.

(g) TERMINATION OF AUTHORITY.—No incentive pay may be paid under this section after December 31, 2013.

(Added Pub. L. 110–417, [div. A], title VI, §619(b)(1), Oct. 14, 2008, 122 Stat. 4488.)

PRIOR PROVISIONS

A prior section 316a, added Pub. L. 102–190, div. A, title VI, §636(a), Dec. 5, 1991, 105 Stat. 1382, related to waiver of certification requirement, prior to repeal by Pub. L. 108–375, div. A, title VI, §620(b)(1), Oct. 28, 2004, 118 Stat. 1954.

## §317. Special pay: officers in critical acquisition positions extending period of active duty

(a) BONUS AUTHORIZED.—An officer described in subsection (b) who executes a written agreement to remain on active duty in a critical acquisition position for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

(b) COVERED OFFICERS.—An officer referred to in subsection (a) is an officer of the Army, Navy, Air Force, or Marine Corps who—

(1) is a member of an Acquisition Corps selected to serve in, or serving in, a critical acquisition position designated under section 1733 of title 10; and

(2) is eligible to retire, or is assigned to such position for a period that will extend beyond the date on which the officer will be eligible to retire, under any provision of law.

(c) AMOUNT OF BONUS.—The amount of a bonus paid under this section for each year a member agrees to remain on active duty may not be more than 15 percent of the annual rate of basic pay paid to the member at the time the member executes a written agreement under this section.

(d) PAYMENT OF BONUS.—Upon the acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed and may be paid by the Secretary in either a lump sum or installments.

(e) ADDITIONAL PAY.—A bonus paid under this section is in addition to other pay and allowances to which an officer is entitled.

(f) REPAYMENT.—An officer who, having entered into a written agreement under subsection (a) and having received all or part of a bonus under this section, does not complete the period of active duty as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.

(g) PERIOD OF COMMITMENT.—The period of active duty agreed upon by an officer in a written agreement under this section is in addition to any other service commitment of the officer, except that any period of active duty agreed upon in a written agreement under subsection (a)(2) or (b)(2) of section 1734 of title 10 by the officer may be counted concurrently with the commitment under this section.

(h) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.

(Added Pub. L. 101–510, div. A, title XII, §1203(a)(1), Nov. 5, 1990, 104 Stat. 1656; amended Pub. L. 109–163, div. A, title VI, §687(b)(26), Jan. 6, 2006, 119 Stat. 3331.)

AMENDMENTS

2006—Subsec. (f). Pub. L. 109–163 amended heading and text of subsec. (f) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to repayment of bonus required when officer fails to complete total period of agreed upon active duty.

EFFECTIVE DATE

Section 1203(b) of Pub. L. 101–510 provided that: ''Section 317 of title 37, United States Code, as added by subsection (a), shall take effect as of October 1, 1991.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a

provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

### § 318. Special pay: special warfare officers extending period of active duty

(a) SPECIAL WARFARE OFFICER DEFINED.—In this section, the term ''special warfare officer'' means an officer of a uniformed service who—

(1) is qualified for a military occupational specialty or designator identified by the Secretary concerned as a special warfare military occupational specialty or designator; and

(2) is serving in a position for which that specialty or designator is authorized.

(b) RETENTION BONUS AUTHORIZED.—A special warfare officer who meets the eligibility requirements specified in subsection (c) and who executes a written agreement to remain on active duty in special warfare service for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

(c) ELIGIBILITY REQUIREMENTS.—A special warfare officer may apply to enter into an agreement referred to in subsection (b) if the officer—

(1) is in pay grade O–3, or is in pay grade O–4 and is not on a list of officers recommended for promotion, at the time the officer applies to enter into the agreement;

(2) has completed at least 6, but not more than 14, years of active commissioned service; and

(3) has completed any service commitment incurred to be commissioned as an officer.

(d) AMOUNT OF BONUS.—The amount of a retention bonus paid under this section may not be more than $15,000 for each year covered by the agreement.

(e) PRORATION.—The term of an agreement under subsection (b) and the amount of the retention bonus payable under subsection (d) may be prorated as long as the agreement does not extend beyond the date on which the officer executing the agreement would complete 14 years of active commissioned service.

(f) PAYMENT METHODS.—(1) Upon acceptance of an agreement under subsection (b) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed.

(2) The amount of the retention bonus may be paid as follows:

(A) At the time the agreement is accepted by the Secretary concerned, the Secretary may make a lump sum payment equal to half the total amount payable under the agreement. The balance of the bonus amount shall be paid in equal annual installments on the anniversary of the acceptance of the agreement.

(B) The Secretary concerned may make graduated annual payments under regulations prescribed by the Secretary, with the first payment being payable at the time the agreement is accepted by the Secretary and subsequent payments being payable on the anniversary of the acceptance of the agreement.

(g) ADDITIONAL PAY.—A retention bonus paid under this section is in addition to any other pay and allowances to which an officer is entitled.

(h) REPAYMENT.—An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty in special warfare service as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.

(i) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section, including the definition of the term ''special warfare service'' for purposes of this section. Regulations prescribed by the Secretary of a military department under this section shall be subject to the approval of the Secretary of Defense.

(Added Pub. L. 106–65, div. A, title VI, § 626(a)(1), Oct. 5, 1999, 113 Stat. 655; amended Pub. L. 107–107, div. A, title X, § 1048(i)(7), Dec. 28, 2001, 115 Stat. 1229; Pub. L. 109–163, div. A, title VI, § 687(b)(27), Jan. 6, 2006, 119 Stat. 3331.)

AMENDMENTS

2006—Subsec. (h). Pub. L. 109–163 amended heading and text of subsec. (h) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to repayment required when officer receives bonus but fails to complete total period of agreed upon active duty in special warfare.

2001—Subsec. (h)(3). Pub. L. 107–107 substituted ''subsection (b)'' for ''subsection (a)''.

EFFECTIVE DATE

Pub. L. 106–65, div. A, title VI, § 626(b), Oct. 5, 1999, 113 Stat. 656, provided that: ''The amendments made by subsection (a) [enacting this section] shall take effect on October 1, 1999.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

### § 319. Special pay: surface warfare officer continuation pay

(a) ELIGIBLE SURFACE WARFARE OFFICER DEFINED.—In this section, the term ''eligible surface warfare officer'' means an officer of the Regular Navy or Navy Reserve on active duty who—

(1) is qualified and serving as a surface warfare officer;

(2) has been selected for assignment as a department head on a surface vessel; and

(3) has completed any service commitment incurred through the officer's original commissioning program or is within one year of completing such commitment.

(b) SPECIAL PAY AUTHORIZED.—An eligible surface warfare officer who executes a written agreement to remain on active duty to complete one or more tours of duty to which the officer may be ordered as a department head on a surface vessel may, upon the acceptance of the

agreement by the Secretary of the Navy, be paid an amount not to exceed $50,000.

(c) PRORATION.—The term of the written agreement under subsection (b) and the amount payable under the agreement may be prorated.

(d) PAYMENT METHODS.—Upon acceptance of the written agreement under subsection (b) by the Secretary of the Navy, the total amount payable pursuant to the agreement becomes fixed. The Secretary shall prepare an implementation plan specifying the amount of each installment payment under the agreement and the times for payment of the installments.

(e) ADDITIONAL PAY.—Any amount paid under this section is in addition to any other pay and allowances to which an officer is entitled.

(f) REPAYMENT.—An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty as a department head on a surface vessel as specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.

(g) REGULATIONS.—The Secretary of the Navy shall prescribe regulations to carry out this section.

(Added Pub. L. 106–65, div. A, title VI, §627(a)(1), Oct. 5, 1999, 113 Stat. 656; amended Pub. L. 107–107, div. A, title VI, §616(b), Dec. 28, 2001, 115 Stat. 1137; Pub. L. 109–163, div. A, title V, §515(d)(1)(E), title VI, §687(b)(28), Jan. 6, 2006, 119 Stat. 3236, 3332.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163, §515(d)(1)(E), substituted ''Navy Reserve'' for ''Naval Reserve'' in introductory provisions.

Subsec. (f). Pub. L. 109–163, §687(b)(28), amended heading and text of subsec. (f) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to repayment required when officer receives bonus but fails to complete total period of agreed upon active duty as department head on surface vessel.

2001—Subsec. (a)(3). Pub. L. 107–107 inserted ''or is within one year of completing such commitment'' before period at end.

EFFECTIVE DATE

Pub. L. 106–65, div. A, title VI, §627(b), Oct. 5, 1999, 113 Stat. 657, provided that: ''The amendments made by subsection (a) [enacting this section] shall take effect on October 1, 1999.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

## §320. Incentive pay: career enlisted flyers

(a) ELIGIBLE CAREER ENLISTED FLYER DEFINED.—In this section, the term ''eligible career enlisted flyer'' means an enlisted member of the armed forces who—

(1) is entitled to basic pay under section 204 of this title, or is entitled to pay under section 206 of this title as described in subsection (e) of this section;

(2) holds an enlisted military occupational specialty or enlisted military rating designated as a career enlisted flyer specialty or rating by the Secretary concerned, performs duty as a dropsonde system operator, or is in training leading to qualification and designation of such a specialty or rating or the performance of such duty;

(3) is qualified for aviation service under regulations prescribed by the Secretary concerned; and

(4) satisfies the operational flying duty requirements applicable under subsection (c).

(b) INCENTIVE PAY AUTHORIZED.—(1) The Secretary concerned may pay monthly incentive pay to an eligible career enlisted flyer in an amount not to exceed the monthly maximum amounts specified in subsection (d). The incentive pay may be paid as continuous monthly incentive pay or on a month-to-month basis, dependent upon the operational flying duty performed by the eligible career enlisted flyer as prescribed in subsection (c).

(2) Continuous monthly incentive pay may not be paid to an eligible career enlisted flyer after the member completes 25 years of aviation service. Thereafter, an eligible career enlisted flyer may still receive incentive pay on a month-to-month basis under subsection (c)(4) for the frequent and regular performance of operational flying duty.

(c) OPERATIONAL FLYING DUTY REQUIREMENTS.—(1) An eligible career enlisted flyer must perform operational flying duties for 6 of the first 10, 9 of the first 15, and 14 of the first 20 years of aviation service, to be eligible for continuous monthly incentive pay under this section.

(2) Upon completion of 10, 15, or 20 years of aviation service, an enlisted member who has not performed the minimum required operational flying duties specified in paragraph (1) during the prescribed period, although otherwise meeting the definition in subsection (a), may no longer be paid continuous monthly incentive pay except as provided in paragraph (3). Payment of continuous monthly incentive pay may be resumed if the member meets the minimum operational flying duty requirement upon completion of the next established period of aviation service.

(3) For the needs of the service, the Secretary concerned may permit, on a case-by-case basis, a member to continue to receive continuous monthly incentive pay despite the member's failure to perform the operational flying duty required during the first 10, 15, or 20 years of aviation service, but only if the member otherwise meets the definition in subsection (a) and has performed at least 5 years of operational flying duties during the first 10 years of aviation service, 8 years of operational flying duties during the first 15 years of aviation service, or 12 years of operational flying duty during the first 20 years of aviation service. The authority of the Secretary concerned under this paragraph may not be delegated below the level of the Service Personnel Chief.

(4) If the eligibility of an eligible career enlisted flyer to continuous monthly incentive pay

ceases under subsection (b)(2) or paragraph (2), the member may still receive month-to-month incentive pay for subsequent frequent and regular performance of operational flying duty. The rate payable is the same rate authorized by the Secretary concerned under subsection (d) for a member of corresponding years of aviation service.

(d) MONTHLY MAXIMUM RATES.—The monthly rate of any career enlisted flyer incentive pay paid under this section to a member on active duty shall be prescribed by the Secretary concerned, but may not exceed the following:

| Years of aviation service | Monthly rate |
|---|---|
| 4 or less | $150 |
| Over 4 | $225 |
| Over 8 | $350 |
| Over 14 | $400. |

(e) ELIGIBILITY OF RESERVE COMPONENT MEMBERS WHEN PERFORMING INACTIVE DUTY TRAINING.—Under regulations prescribed by the Secretary concerned, when a member of a reserve component or the National Guard, who is entitled to compensation under section 206 of this title, meets the definition of eligible career enlisted flyer, the Secretary concerned may increase the member's compensation by an amount equal to 1/30 of the monthly incentive pay authorized by the Secretary concerned under subsection (d) for a member of corresponding years of aviation service who is entitled to basic pay under section 204 of this title. The reserve component member may receive the increase for as long as the member is qualified for it, for each regular period of instruction or period of appropriate duty, at which the member is engaged for at least two hours, or for the performance of such other equivalent training, instruction, duty or appropriate duties, as the Secretary may prescribe under section 206(a) of this title.

(f) RELATION TO HAZARDOUS DUTY INCENTIVE PAY OR DIVING DUTY SPECIAL PAY.—A member receiving incentive pay under section 301(a) of this title or special pay under section 304 of this title may not be paid special pay under this section for the same period of service.

(g) SAVE PAY PROVISION.—If, immediately before a member receives incentive pay under this section, the member was entitled to incentive pay under section 301(a) of this title, the rate at which the member is paid incentive pay under this section shall be equal to the higher of the monthly amount applicable under subsection (d) or the rate of incentive pay the member was receiving under subsection (b) or (c)(2)(A) of section 301 of this title.

(h) SPECIALTY CODE OF DROPSONDE SYSTEM OPERATORS.—Within the Air Force, the Secretary of the Air Force shall assign to members who are dropsonde system operators a specialty code that identifies such members as serving in a weather specialty.

(i) DEFINITIONS.—In this section:

(1) The term ''aviation service'' means participation in aerial flight performed, under regulations prescribed by the Secretary concerned, by an eligible career enlisted flyer.

(2) The term ''operational flying duty'' means flying performed under competent orders while serving in assignments, including an assignment as a dropsonde system operator, in which basic flying skills normally are maintained in the performance of assigned duties as determined by the Secretary concerned, and flying duty performed by members in training that leads to the award of an enlisted aviation rating or military occupational specialty designated as a career enlisted flyer rating or specialty by the Secretary concerned.

(Added Pub. L. 106–65, div. A, title VI, § 628(a)(1), Oct. 5, 1999, 113 Stat. 657.)

EFFECTIVE DATE

Pub. L. 106–65, div. A, title VI, § 628(b), Oct. 5, 1999, 113 Stat. 659, provided that: ''The amendments made by subsection (a) [enacting this section] shall take effect on October 1, 1999.''

## § 321. Special pay: judge advocate continuation pay

(a) ELIGIBLE JUDGE ADVOCATE DEFINED.—In this section, the term ''eligible judge advocate'' means an officer of the armed forces on full-time active duty who—

(1) is qualified and serving as a judge advocate, as defined in section 801 of title 10; and

(2) has completed—

(A) the active duty service obligation incurred through the officer's original commissioning program; or

(B) in the case of an officer detailed under section 2004 of title 10 or section 470 of title 14, the active duty service obligation incurred as part of that detail.

(b) SPECIAL PAY AUTHORIZED.—An eligible judge advocate who executes a written agreement to remain on active duty for a period of obligated service specified in the agreement may, upon the acceptance of the agreement by the Secretary concerned, be paid continuation pay under this section. The total amount paid to an officer under one or more agreements under this section may not exceed $60,000.

(c) PRORATION.—The term of an agreement under subsection (b) and the amount payable under the agreement may be prorated.

(d) PAYMENT METHODS.—Upon acceptance of an agreement under subsection (b) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed. The Secretary shall prepare an implementation plan specifying the amount of each installment payment under the agreement and the times for payment of the installments.

(e) ADDITIONAL PAY.—Any amount paid to an officer under this section is in addition to any other pay and allowances to which the officer is entitled.

(f) REPAYMENT.—An officer who has entered into a written agreement under subsection (b) and has received all or part of the amount payable under the agreement but who does not complete the total period of active duty specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.

(g) REGULATIONS.—The Secretary concerned shall prescribe regulations to carry out this section.

(Added Pub. L. 106–65, div. A, title VI, §629(a)(1), Oct. 5, 1999, 113 Stat. 659; amended Pub. L. 109–163, div. A, title VI, §687(b)(29), Jan. 6, 2006, 119 Stat. 3332.)

AMENDMENTS

2006—Subsec. (f). Pub. L. 109–163 amended heading and text of subsec. (f) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to repayment required when officer fails to complete total period of agreed upon active duty.

EFFECTIVE DATE

Pub. L. 106–65, div. A, title VI, §629(c), Oct. 5, 1999, 113 Stat. 661, provided that: ''The amendments made by subsection (a) [enacting this section] shall take effect on October 1, 1999.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

**[§322. Renumbered §354]**

**[§323. Renumbered §355]**

**§324. Special pay: accession bonus for new officers in critical skills**

(a) ACCESSION BONUS AUTHORIZED.—Under regulations prescribed by the Secretary concerned, a person who executes a written agreement to accept a commission or an appointment as an officer of the armed forces and serve on active duty in a designated critical officer skill for the period specified in the agreement may, upon acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

(b) DESIGNATION OF CRITICAL OFFICER SKILLS.—The Secretary concerned shall designate the critical officer skills for the purposes of this section. A skill may be designated as a critical officer skill for an armed force under this subsection if—

(1) in order to meet requirements of the armed force, it is critical for the armed force to have a sufficient number of officers who are qualified in that skill; and

(2) in order to mitigate a current or projected significant shortage of personnel in the armed force who are qualified in that skill, it is critical to access into that armed force in sufficient numbers persons who are qualified in that skill or are to be trained in that skill.

(c) LIMITATION ON AMOUNT OF BONUS.—The amount of an accession bonus under subsection (a) may not exceed $60,000.

(d) PAYMENT METHOD.—Upon acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount of the accession bonus payable under the agreement becomes fixed. The agreement shall specify whether the accession bonus will be paid by the Secretary in a lump sum or installments.

(e) RELATION TO OTHER ACCESSION BONUS AUTHORITY.—An individual may not receive an accession bonus under this section and section 302d, 302h, 302j, or 312b of this title for the same period of service.

(f) REPAYMENT.—An individual who, having received all or part of the bonus under an agreement referred to in subsection (a), is not thereafter commissioned as an officer or does not commence or complete the total period of active duty service specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2010.

(Added Pub. L. 107–107, div. A, title VI, §621(a), Dec. 28, 2001, 115 Stat. 1139; amended Pub. L. 107–314, div. A, title VI, §614(e), title X, §1062(c)(2), Dec. 2, 2002, 116 Stat. 2568, 2651; Pub. L. 108–136, div. A, title VI, §§614(e), 623, Nov. 24, 2003, 117 Stat. 1502, 1505; Pub. L. 108–375, div. A, title VI, §614(f), Oct. 28, 2004, 118 Stat. 1948; Pub. L. 109–163, div. A, title VI, §§624(f), 687(b)(32), Jan. 6, 2006, 119 Stat. 3295, 3332; Pub. L. 109–364, div. A, title VI, §614(f), Oct. 17, 2006, 120 Stat. 2249; Pub. L. 110–181, div. A, title VI, §614(e), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title VI, §614(e), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111–84, div. A, title VI, §615(5), Oct. 28, 2009, 123 Stat. 2354.)

AMENDMENTS

2009—Subsec. (g). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (g). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (f). Pub. L. 109–163, §687(b)(32), amended heading and text of subsec. (f) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to repayment required when individual receives accession bonus payment but fails to accept commission or appointment as officer or to commence or complete agreed upon period of active duty.

Subsec. (g). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, §624(f), substituted ''December 31, 2006'' for ''December 31, 2005''.

2004—Subsec. (g). Pub. L. 108–375 substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsecs. (a), (f)(1). Pub. L. 108–136, §623, inserted ''or an appointment'' after ''commission''.

Subsec. (g). Pub. L. 108–136, §614(e), substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (b). Pub. L. 107–314, §1062(c)(2), struck out par. (1) designation before ''The Secretary''.

Subsec. (g). Pub. L. 107–314, §614(e), substituted ''December 31, 2003'' for ''December 31, 2002''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or simi-

lar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

### § 325. Incentive bonus: savings plan for education expenses and other contingencies

(a) BENEFIT AND ELIGIBILITY.—The Secretary concerned may purchase United States savings bonds under this section for a member of the armed forces who is eligible as follows:

(1) A member who, before completing three years of service on active duty, enters into a commitment to perform qualifying service.

(2) A member who, after completing three years of service on active duty, but not more than nine years of service on active duty, enters into a commitment to perform qualifying service.

(3) A member who, after completing nine years of service on active duty, enters into a commitment to perform qualifying service.

(b) QUALIFYING SERVICE.—For the purposes of this section, qualifying service is service on active duty in a specialty designated by the Secretary concerned as critical to meet requirements (whether or not such specialty is designated as critical to meet wartime or peacetime requirements) for a period that—

(1) is not less than six years; and

(2) does not include any part of a period for which the member is obligated to serve on active duty under an enlistment or other agreement for which a benefit has previously been paid under this section.

(c) FORMS OF COMMITMENT TO ADDITIONAL SERVICE.—For the purposes of this section, a commitment means—

(1) in the case of an enlisted member, a reenlistment; and

(2) in the case of a commissioned officer, an agreement entered into with the Secretary concerned.

(d) AMOUNTS OF BONDS.—The total of the face amounts of the United States savings bonds authorized to be purchased for a member under this section for a commitment shall be as follows:

(1) In the case of a purchase for a member under paragraph (1) of subsection (a), $5,000.

(2) In the case of a purchase for a member under paragraph (2) of subsection (a), the amount equal to the excess of $15,000 over the total of the face amounts of any United States savings bonds previously purchased for the member under this section.

(3) In the case of a purchase for a member under paragraph (3) of subsection (a), the amount equal to the excess of $30,000 over the total of the face amounts of any United States savings bonds previously purchased for the member under this section.

(e) TOTAL AMOUNT OF BENEFIT.—The total amount of the benefit authorized for a member when United States savings bonds are purchased for the member under this section by reason of a commitment by that member shall be the sum of—

(1) the purchase price of the United States savings bonds; and

(2) the amounts that would be deducted and withheld for the payment of individual income taxes if the total amount computed under this subsection for that commitment were paid to the member as a bonus.

(f) AMOUNT WITHHELD FOR TAXES.—The total amount payable for a member under subsection (e)(2) for a commitment by that member shall be withheld, credited, and otherwise treated in the same manner as amounts deducted and withheld from the basic pay of the member.

(g) REPAYMENT.—If a person does not complete the qualifying service for which the person is obligated under a commitment for which a benefit has been paid under this section, the person shall be subject to the repayment provisions of section 303a(e) of this title.

(h) RELATIONSHIP TO OTHER SPECIAL PAYS.—The benefit authorized under this section is in addition to any other bonus or incentive or special pay that is paid or payable to a member under any other provision of this chapter for any portion of the same qualifying service.

(i) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Homeland Security for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(Added Pub. L. 107–107, div. A, title VI, § 622(a)(1), Dec. 28, 2001, 115 Stat. 1140; amended Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–163, div. A, title VI, § 687(b)(33), Jan. 6, 2006, 119 Stat. 3332.)

AMENDMENTS

2006—Subsec. (g). Pub. L. 109–163, amended heading and text of subsec. (g) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when person fails to complete qualifying service for which person is obligated under commitment for which benefit was paid.

2002—Subsec. (i). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE

Pub. L. 107–107, div. A, title VI, § 622(b), Dec. 28, 2001, 115 Stat. 1142, provided that: ''Section 325 of title 37, United States Code, as added by subsection (a), shall apply with respect to reenlistments and other agreements for qualifying service, as described in that section, that are entered into on or after October 1, 2001.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

### §326. Incentive bonus: conversion to military occupational specialty to ease personnel shortage

(a) INCENTIVE BONUS AUTHORIZED.—The Secretary concerned may pay a bonus under this section to an eligible member of a regular or reserve component of the armed forces who executes a written agreement to convert to, and serve for a period of not less than three years in, a military occupational specialty for which there is a shortage of trained and qualified personnel.

(b) ELIGIBLE MEMBERS.—A member is eligible to enter into an agreement under subsection (a) if, at the time the agreement is executed, the member is serving in—

(1) pay grade E–6, with not more than 10 years of service computed under section 205 of this title; or

(2) pay grade E–5 or below, regardless of years of service.

(c) AMOUNT AND PAYMENT OF BONUS.—(1) A bonus under this section may not exceed $4,000, in the case of a member of a regular component of the armed forces, and $2,000, in the case of a member of a reserve component of the armed forces.

(2) A bonus payable under this section shall be disbursed in one lump sum when the member's conversion to the military occupational specialty is approved by the chief personnel officer of the regular or reserve component of the member's armed force.

(d) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

(e) REPAYMENT.—A member who does not convert to and complete the period of service in the military occupational specialty specified in the agreement executed under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.

(f) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2010.

(Added Pub. L. 108–136, div. A, title VI, §625(a), Nov. 24, 2003, 117 Stat. 1506; amended Pub. L. 108–375, div. A, title VI, §622, Oct. 28, 2004, 118 Stat. 1955; Pub. L. 109–163, div. A, title VI, §687(b)(34), Jan. 6, 2006, 119 Stat. 3333; Pub. L. 109–364, div. A, title VI, §614(g), Oct. 17, 2006, 120 Stat. 2249; Pub. L. 110–181, div. A, title VI, §614(f), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title VI, §614(f), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111–84, div. A, title VI, §615(6), Oct. 28, 2009, 123 Stat. 2354.)

AMENDMENTS

2009—Subsec. (g). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (g). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (e). Pub. L. 109–163, amended heading and text of subsec. (e) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when member fails to serve in specified military occupational specialty for agreed upon period.

Subsec. (g). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

2004—Subsec. (a). Pub. L. 108–375, §622(a)(1), inserted ''of a regular or reserve component'' after ''an eligible member''.

Subsec. (b). Pub. L. 108–375, §622(a)(2), substituted comma for dash after ''if'', struck out ''(1) the member is entitled to basic pay; and'' and par. (2) designation before ''at the time'', and redesignated subpars. (A) and (B) of former par. (2) as pars. (1) and (2), respectively.

Subsec. (c)(1). Pub. L. 108–375, §622(b), inserted before period at end '', in the case of a member of a regular component of the armed forces, and $2,000, in the case of a member of a reserve component of the armed forces''.

Subsec. (c)(2). Pub. L. 108–375, §622(a)(3), inserted ''regular or reserve component of the'' after ''chief personnel officer of the''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

### §327. Incentive bonus: transfer between armed forces

(a) INCENTIVE BONUS AUTHORIZED.—A bonus under this section may be paid to an eligible member of a regular component or reserve component of an armed force who executes a written agreement—

(1) to transfer from such regular component or reserve component to a regular component or reserve component of another armed force; and

(2) to serve pursuant to such agreement for a period of not less than three years in the component to which transferred.

(b) ELIGIBLE MEMBERS.—A member is eligible to enter into an agreement under subsection (a) if, as of the date of the agreement, the member—

(1) has not failed to satisfactorily complete any term of enlistment in the armed forces;

(2) is eligible for reenlistment in the armed forces or, in the case of an officer, is eligible to continue in service in a regular or reserve component of the armed forces; and

(3) has fulfilled such requirements for transfer to the component of the armed force to which the member will transfer as the Secretary having jurisdiction over such armed force shall establish.

(c) LIMITATION.—A member may enter into an agreement under subsection (a) to transfer to a

regular component or reserve component of another armed force only if the Secretary having jurisdiction over such armed force determines that there is shortage of trained and qualified personnel in such component.

(d) AMOUNT AND PAYMENT OF BONUS.—(1) A bonus under this section may not exceed $10,000.

(2) A bonus under this section shall be paid by the Secretary having jurisdiction of the armed force to which the member to be paid the bonus is transferring.

(3) A bonus under this section shall, at the election of the Secretary paying the bonus—

(A) be disbursed to the member in one lump sum when the transfer for which the bonus is paid is approved by the chief personnel officer of the armed force to which the member is transferring; or

(B) be paid to the member in annual installments in such amounts as may be determined by the Secretary paying the bonus.

(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

(f) REPAYMENT.—A member who is paid a bonus under an agreement under this section and who, voluntarily or because of misconduct, fails to serve for the period covered by such agreement shall be subject to the repayment provisions of section 303a(e) of this title.

(g) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department under this subsection shall be subject to the approval of the Secretary of Defense.

(h) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2010.

(Added and amended Pub. L. 109–163, div. A, title VI, §§ 641(a), 687(b)(35), Jan. 6, 2006, 119 Stat. 3304, 3333; Pub. L. 109–364, div. A, title VI, §§ 614(h), 620(a), Oct. 17, 2006, 120 Stat. 2249, 2252; Pub. L. 111–84, div. A, title VI, § 615(7), Oct. 28, 2009, 123 Stat. 2354.)

AMENDMENTS

2009—Subsec. (h). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2006—Subsec. (d)(1). Pub. L. 109–364, § 620(a), substituted ''$10,000'' for ''$2,500''.

Subsec. (f). Pub. L. 109–163, § 687(b)(35), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows:

''(1) A member who is paid a bonus under an agreement under this section and who, voluntarily or because of misconduct, fails to serve for the period covered by such agreement shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid such member as the period which such member failed to serve bears to the total period for which the bonus was paid.

''(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

''(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under paragraph (1).''

Subsec. (h). Pub. L. 109–364, § 614(h), substituted ''2009'' for ''2006''.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title VI, § 620(b), Oct. 17, 2006, 120 Stat. 2252, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2006, and shall apply to agreements entered into or revised under section 327 of title 37, United States Code, on or after that date.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

## § 328. Combat-related injury rehabilitation pay

(a) SPECIAL PAY AUTHORIZED.—The Secretary concerned may pay monthly special pay under this section to a member of the armed forces who, while in the line of duty, incurs a wound, injury, or illness in a combat operation or combat zone designated by the Secretary of Defense and is evacuated from the theater of the combat operation or from the combat zone for medical treatment.

(b) COMMENCEMENT OF PAYMENT.—Subject to subsection (c), the special pay authorized by subsection (a) may be paid to a member described in such subsection for any month beginning after the date on which the member was evacuated from the theater of the combat operation or the combat zone in which the member incurred the combat-related injury.

(c) TERMINATION OF PAYMENTS.—The payment of special pay to a member under subsection (a) shall terminate at the end of the first month during which any of the following occurs:

(1) The member is paid a benefit under the traumatic injury protection rider of the Servicemembers' Group Life Insurance Program issued under section 1980A of title 38.

(2) The member receives notification of the eligibility of the member for a benefit under such traumatic injury protection rider and a period of 30 days expires after the date of such notification.

(3) The member is no longer hospitalized in a military treatment facility or a facility under the auspices of the military health care system.

(d) AMOUNT OF SPECIAL PAY.—The monthly amount of special pay paid to a member under this section shall be equal to $430, less any payment received by the member for the same month under section 310(b)[1] of this title.

(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Special pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled or authorized to receive.

(Added Pub. L. 109–163, div. A, title VI, § 642(a), Jan. 6, 2006, 119 Stat. 3305.)

REFERENCES IN TEXT

Section 310(b) of this title, referred to in subsec. (d), was redesignated section 310(c) of this title, and a new

[1] See References in Text note below.

section 310(b) was added, by Pub. L. 111–84, div. A, title VI, § 618(a)(3), (4), Oct. 28, 2009, 123 Stat. 2355.

EFFECTIVE DATE

Pub. L. 109–163, div. A, title VI, § 642(d), Jan. 6, 2006, 119 Stat. 3306, provided that: ''The Secretary of a military department may provide special pay under section 328 of title 37, United States Code, as added by subsection (a), for months beginning on or after the date of the enactment of this Act [Jan. 6, 2006]. A member of the Armed Forces who incurred a wound, injury, or illness under the circumstances described in subsection (a) of such section before the date of the enactment of this Act may receive such pay for such wound, injury, or illness for months beginning on or after that date so long as the member continues to satisfy the eligibility criteria specified in such section.''

### § 329. Incentive bonus: retired members and reserve component members volunteering for high-demand, low-density assignments

(a) INCENTIVE BONUS AUTHORIZED.—The Secretary of Defense may pay a bonus under this section to a retired member or former member of the Army, Navy, Air Force, or Marine Corps or to a member of a reserve component of the Army, Navy, Air Force, or Marine Corps (who is not otherwise serving on active duty) who executes a written agreement to serve on active duty for a period specified in the agreement in an assignment intended to alleviate the need for members in a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements.

(b) MAXIMUM AMOUNT OF BONUS.—A bonus under subsection (a) and any incentive developed under subsection (d) may not exceed $50,000.

(c) METHODS OF PAYMENT.—At the election of the Secretary of Defense, a bonus under subsection (a) and any incentive developed under subsection (d) shall be paid or provided—

(1) when the member commences service on active duty; or

(2) in annual installments in such amounts as may be determined by the Secretary.

(d) DEVELOPMENT OF ADDITIONAL INCENTIVES.—(1) The Secretary of Defense may develop and provide to members referred to in subsection (a) additional incentives to encourage such members to return to active duty in assignments intended to alleviate the need for members in a high-demand, low-density military capability or in other specialties designated by the Secretary as critical to meet wartime or peacetime requirements.

(2) The provision of any incentive developed under this subsection shall be subject to an agreement, as required for bonuses under subsection (a).

(3) Not later than 30 days before first offering any incentive developed under this subsection, the Secretary shall submit to the congressional defense committees a report that contains a description of that incentive and an explanation why a bonus under subsection (a) or other pay and allowances are not sufficient to alleviate the high-demand, low-density military capability or otherwise fill critical military specialties.

(4) In this subsection, the term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10.

(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus or other incentive paid or provided to a member under this section is in addition to any other pay and allowances to which the member is entitled.

(f) PROHIBITION ON PROMOTIONS.—The written agreement required by subsections (a) and (d) shall specify that a member who is paid or receives a bonus or other incentive under this section is not eligible for promotion while serving in the assignment for which the bonus or other incentive is provided.

(g) REPAYMENT.—A member who does not complete the period of active duty specified in the agreement executed under subsection (a) or (d) shall be subject to the repayment provisions of section 303a(e) of this title.

(h) HIGH-DEMAND, LOW-DENSITY MILITARY CAPABILITY.—In this section, the term ''high-demand, low-density military capability'' means a combat, combat support or service support capability, unit, system, or occupational specialty that the Secretary of Defense determines has funding, equipment, or personnel levels that are substantially below the levels required to fully meet or sustain actual or expected operational requirements set by regional commanders.

(i) REGULATIONS.—The Secretary of Defense may prescribe such regulations as the Secretary considers necessary to carry out this section.

(j) TERMINATION OF AUTHORITY.—No agreement under subsection (a) or (d) may be entered into after December 31, 2010.

(Added Pub. L. 109–364, div. A, title VI, § 621(a), Oct. 17, 2006, 120 Stat. 2253.)

EFFECTIVE DATE

Pub. L. 109–364, div. A, title VI, § 621(e), Oct. 17, 2006, 120 Stat. 2255, provided that: ''No agreement may be entered into under section 329 of title 37, United States Code, as added by subsection (a), before October 1, 2006.''

### § 330. Special pay: accession bonus for officer candidates

(a) ACCESSION BONUS AUTHORIZED.—Under regulations prescribed by the Secretary concerned, a person who executes a written agreement described in subsection (c) may be paid an accession bonus under this section upon acceptance of the agreement by the Secretary concerned.

(b) AMOUNT OF BONUS.—The amount of an accession bonus under subsection (a) may not exceed $8,000.

(c) AGREEMENT.—A written agreement referred to in subsection (a) is a written agreement by a person—

(1) to complete officer candidate school;

(2) to accept a commission or appointment as an officer of the armed forces; and

(3) to serve on active duty as a commissioned officer for a period specified in the agreement.

(d) PAYMENT METHOD.—Upon acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount of the

accession bonus payable under the agreement becomes fixed. The agreement shall specify whether the accession bonus will be paid in a lump sum or installments.

(e) REPAYMENT.—A person who, having received all or part of the bonus under a written agreement under subsection (a), does not complete the total period of active duty as a commissioned officer as specified in such agreement shall be subject to the repayment provisions of section 303a(e) of this title.

(f) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2010.

(Added Pub. L. 109–364, div. A, title VI, § 622(a)(1), Oct. 17, 2006, 120 Stat. 2255; amended Pub. L. 110–181, div. A, title VI, § 614(g), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title VI, § 614(g), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111–84, div. A, title VI, § 615(8), Oct. 28, 2009, 123 Stat. 2354.)

AMENDMENTS

2009—Subsec. (f). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (f). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE

Pub. L. 109–364, div. A, title VI, § 622(a)(3), Oct. 17, 2006, 120 Stat. 2256, provided that: ''The amendments made by this subsection [enacting this section] shall take effect on October 1, 2006.''

## SUBCHAPTER II—CONSOLIDATION OF SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES

### § 331. General bonus authority for enlisted members

(a) AUTHORITY TO PROVIDE BONUS.—The Secretary concerned may pay a bonus under this section to a person, including a member of the armed forces, who—

(1) enlists in an armed force;

(2) enlists in or affiliates with a reserve component of an armed force;

(3) reenlists, voluntarily extends an enlistment, or otherwise agrees to serve—

(A) for a specified period in a designated career field, skill, or unit of an armed force; or

(B) under other conditions of service in an armed force;

(4) transfers from a regular component of an armed force to a reserve component of that same armed force or from a reserve component of an armed force to the regular component of that same armed force; or

(5) transfers from a regular component or reserve component of an armed force to a regular component or reserve component of another armed force, subject to the approval of the Secretary with jurisdiction over the armed force to which the member is transferring.

(b) SERVICE ELIGIBILITY.—A bonus authorized by subsection (a) may be paid to a person or member only if the person or member agrees under subsection (d)—

(1) to serve for a specified period in a designated career field, skill, unit, or grade; or

(2) to meet some other condition or conditions of service imposed by the Secretary concerned.

(c) MAXIMUM AMOUNT AND METHOD OF PAYMENT.—

(1) MAXIMUM AMOUNT.—The Secretary concerned shall determine the amount of a bonus to be paid under this section, except that—

(A) a bonus paid under paragraph (1) or (2) of subsection (a) may not exceed $50,000 for a minimum two-year period of obligated service agreed to under subsection (d);

(B) a bonus paid under paragraph (3) of subsection (a) may not exceed $30,000 for each year of obligated service in a regular component agreed to under subsection (d);

(C) a bonus paid under paragraph (3) of subsection (a) may not exceed $15,000 for each year of obligated service in a reserve component agreed to under subsection (d); and

(D) a bonus paid under paragraph (4) or (5) of subsection (a) may not exceed $10,000.

(2) LUMP SUM OR INSTALLMENTS.—A bonus under this section may be paid in a lump sum or in periodic installments, as determined by the Secretary concerned.

(3) FIXING BONUS AMOUNT.—Upon acceptance by the Secretary concerned of the written agreement required by subsection (d), the total amount of the bonus to be paid under the agreement shall be fixed.

(d) WRITTEN AGREEMENT.—To receive a bonus under this section, a person or member determined to be eligible for the bonus shall enter into a written agreement with the Secretary concerned that specifies—

(1) the amount of the bonus;

(2) the method of payment of the bonus under subsection (c)(2);

(3) the period of obligated service; and

(4) the type or conditions of the service.

(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus paid to a person or member under this section is in addition to any other pay and allowance to which the person or member is entitled.

(f) RELATIONSHIP TO PROHIBITION ON BOUNTIES.—A bonus authorized under this section is not a bounty for purposes of section 514(a) of title 10.

(g) REPAYMENT.—A person or member who receives a bonus under this section and who fails to complete the period of service, or meet the conditions of service, for which the bonus is paid, as specified in the written agreement under subsection (d), shall be subject to the repayment provisions of section 373 of this title.

(h) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2010.

(Added Pub. L. 110–181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 163; amended Pub. L. 111–84, div. A, title VI, § 614(1), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (h). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

### § 332. General bonus authority for officers

(a) AUTHORITY TO PROVIDE BONUS.—The Secretary concerned may pay a bonus under this section to a person, including an officer in the uniformed services, who—

(1) accepts a commission or appointment as an officer in a uniformed service;

(2) affiliates with a reserve component of a uniformed service;

(3) agrees to remain on active duty or to serve in an active status for a specific period as an officer in a uniformed service;

(4) transfers from a regular component of a uniformed service to a reserve component of that same uniformed service or from a reserve component of a uniformed service to the regular component of that same uniformed service; or

(5) transfers from a regular component or reserve component of a uniformed service to a regular component or reserve component of another uniformed service, subject to the approval of the Secretary with jurisdiction over the uniformed service to which the member is transferring.

(b) SERVICE ELIGIBILITY.—A bonus authorized by subsection (a) may be paid to a person or officer only if the person or officer agrees under subsection (d)—

(1) to serve for a specified period in a designated career field, skill, unit, or grade; or

(2) to meet some other condition or conditions of service imposed by the Secretary concerned.

(c) MAXIMUM AMOUNT AND METHOD OF PAYMENT.—

(1) MAXIMUM AMOUNT.—The Secretary concerned shall determine the amount of a bonus to be paid under this section, except that—

(A) a bonus paid under paragraph (1) of subsection (a) may not exceed $60,000 for a minimum three-year period of obligated service agreed to under subsection (d);

(B) a bonus paid under paragraph (2) of subsection (a) may not exceed $12,000 for a minimum three-year period of obligated service agreed to under subsection (d);

(C) a bonus paid under paragraph (3) of subsection (a) may not exceed $50,000 for each year of obligated service in a regular component agreed to under subsection (d);

(D) a bonus paid under paragraph (3) of subsection (a) may not exceed $12,000 for each year of obligated service in a reserve component agreed to under subsection (d); and

(E) a bonus paid under paragraph (4) or (5) of subsection (a) may not exceed $10,000.

(2) LUMP SUM OR INSTALLMENTS.—A bonus under this section may be paid in a lump sum or in periodic installments, as determined by the Secretary concerned.

(3) FIXING BONUS AMOUNT.—Upon acceptance by the Secretary concerned of the written agreement required by subsection (d), the total amount of the bonus to be paid under the agreement shall be fixed.

(d) WRITTEN AGREEMENT.—To receive a bonus under this section, a person or officer determined to be eligible for the bonus shall enter into a written agreement with the Secretary concerned that specifies—

(1) the amount of the bonus;

(2) the method of payment of the bonus under subsection (c)(2);

(3) the period of obligated service; and

(4) the type or conditions of the service.

(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—The bonus paid to a person or officer under this section is in addition to any other pay and allowance to which the person or officer is entitled.

(f) REPAYMENT.—A person or officer who receives a bonus under this section and who fails to complete the period of service, or meet the conditions of service, for which the bonus is paid, as specified in the written agreement under subsection (d), shall be subject to the repayment provisions of section 373 of this title.

(g) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2010.

(Added Pub. L. 110–181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 164; amended Pub. L. 111–84, div. A, title VI, § 614(2), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (g). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

### § 333. Special bonus and incentive pay authorities for nuclear officers

(a) NUCLEAR OFFICER BONUS.—The Secretary of the Navy may pay a nuclear officer bonus under this section to a person, including an officer in the Navy, who—

(1) is selected for the officer naval nuclear power training program in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants and agrees to serve, upon completion of such training, on active duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; or

(2) has the current technical qualification for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants and agrees to remain on active duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

(b) NUCLEAR OFFICER INCENTIVE PAY.—The Secretary of the Navy may pay nuclear officer

incentive pay under this section to an officer in the Navy who—

(1) is entitled to basic pay under section 204 of this title; and

(2) remains on active duty for a specified period while maintaining current technical qualifications, as approved by the Secretary, for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

(c) ADDITIONAL ELIGIBILITY CRITERIA.—The Secretary of the Navy may impose such additional criteria for the receipt of a nuclear officer bonus or nuclear officer incentive pay under this section as the Secretary determines to be appropriate.

(d) MAXIMUM AMOUNT AND METHOD OF PAYMENT.—

(1) MAXIMUM AMOUNT.—The Secretary of the Navy shall determine the amounts of a nuclear officer bonus or nuclear officer incentive pay to be paid under this section, except that—

(A) a nuclear officer bonus paid under subsection (a) may not exceed $35,000 for each 12-month period of the agreement under subsection (e); and

(B) the amount of nuclear officer incentive paid under subsection (b) may not exceed $25,000 for each 12-month period of qualifying service.

(2) LUMP SUM OR INSTALLMENTS.—A nuclear officer bonus or nuclear officer incentive pay under this section may be paid in a lump sum or in periodic installments.

(3) FIXING BONUS AMOUNT.—Upon acceptance by the Secretary concerned of the written agreement required by subsection (e), the total amount of the nuclear officer bonus to be paid under the agreement shall be fixed.

(e) WRITTEN AGREEMENT FOR BONUS.—

(1) AGREEMENT REQUIRED.—To receive a nuclear officer bonus under subsection (a), a person or officer determined to be eligible for the bonus shall enter into a written agreement with the Secretary of the Navy that specifies—

(A) the amount of the bonus;

(B) the method of payment of the bonus under subsection (d)(2);

(C) the period of obligated service; and

(D) the type or conditions of the service.

(2) REPLACEMENT AGREEMENT.—An officer who is performing obligated service under an agreement for a nuclear officer bonus may execute a new agreement to replace the existing agreement if the amount to be paid under the new agreement will be higher than the amount to be paid under the existing agreement. The period of the new agreement shall be equal to or exceed the remaining term of the period of the officer's existing agreement. If a new agreement is executed under this paragraph, the existing agreement shall be cancelled, effective on the day before an anniversary date of the existing agreement occurring after the date on which the amount to be paid under this paragraph is increased.

(f) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A nuclear officer bonus or nuclear officer incentive pay paid to a person or officer under this section is in addition to any other pay and allowance to which the person or officer is entitled, except that a person or officer may not receive a payment under this section and section 332 or 353 of this title for the same skill and period of service.

(g) REPAYMENT.—A person or officer who receives a nuclear officer bonus or nuclear officer incentive pay under this section and who fails to complete the officer naval nuclear power training program, maintain required technical and operational qualifications, complete the period of service, or meet the types or conditions of service for which the bonus or incentive pay is paid, as specified in the written agreement under subsection (e) in the case of a nuclear officer bonus, shall be subject to the repayment provisions of section 373 of this title.

(h) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of the Navy.

(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2010.

(Added Pub. L. 110–181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 166; amended Pub. L. 110–417, [div. A], title VI, § 618(a), Oct. 14, 2008, 122 Stat. 4486; Pub. L. 111–84, div. A, title VI, § 614(3), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (i). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsecs. (a)(2), (b)(2). Pub. L. 110–417 struck out ''and operational'' after ''current technical''.

## § 334. Special aviation incentive pay and bonus authorities for officers

(a) AVIATION INCENTIVE PAY.—The Secretary concerned may pay aviation incentive pay under this section to an officer in a regular or reserve component of a uniformed service who—

(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title;

(2) maintains, or is in training leading to, an aeronautical rating or designation that qualifies the officer to engage in operational flying duty or proficiency flying duty;

(3) engages in, or is in training leading to, frequent and regular performance of operational flying duty or proficiency flying duty;

(4) engages in or remains in aviation service for a specified period; and

(5) meets such other criteria as the Secretary concerned determines appropriate.

(b) AVIATION BONUS.—The Secretary concerned may pay an aviation bonus under this section to an officer in a regular or reserve component of a uniformed service who—

(1) is entitled to aviation incentive pay under subsection (a);

(2) has completed any active duty service commitment incurred for undergraduate aviator training or is within one year of completing such commitment;

(3) executes a written agreement to remain on active duty in a regular component or to

serve in an active status in a reserve component in aviation service for at least one year; and

(4) meets such other criteria as the Secretary concerned determines appropriate.

(c) MAXIMUM AMOUNT AND METHOD OF PAYMENT.—

(1) MAXIMUM AMOUNT.—The Secretary concerned shall determine the amount of a bonus or incentive pay to be paid under this section, except that—

(A) aviation incentive pay under subsection (a) shall be paid at a monthly rate, not to exceed $850 per month; and

(B) an aviation bonus under subsection (b) may not exceed $25,000 for each 12-month period of obligated service agreed to under subsection (d).

(2) LUMP SUM OR INSTALLMENTS.—A bonus under this section may be paid in a lump sum or in periodic installments, as determined by the Secretary concerned.

(3) FIXING BONUS AMOUNT.—Upon acceptance by the Secretary concerned of the written agreement required by subsection (d), the total amount of the bonus to be paid under the agreement shall be fixed.

(d) WRITTEN AGREEMENT FOR BONUS.—To receive an aviation officer bonus under this section, an officer determined to be eligible for the bonus shall enter into a written agreement with the Secretary concerned that specifies—

(1) the amount of the bonus;

(2) the method of payment of the bonus under subsection (c)(2);

(3) the period of obligated service; and

(4) the type or conditions of the service.

(e) RESERVE COMPONENT OFFICERS PERFORMING INACTIVE DUTY TRAINING.—A reserve component officer who is entitled to compensation under section 206 of this title and who is authorized aviation incentive pay under this section may be paid an amount of incentive pay that is proportionate to the compensation received under section 206 for inactive-duty training.

(f) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—

(1) AVIATION INCENTIVE PAY.—Aviation incentive pay paid to an officer under subsection (a) shall be in addition to any other pay and allowance to which the officer is entitled, except that an officer may not receive a payment under such subsection and section 351(a)(2) or 353 of this title for the same skill and period of service.

(2) AVIATION BONUS.—An aviation bonus paid to an officer under subsection (b) shall be in addition to any other pay and allowance to which the officer is entitled, except that an officer may not receive a payment under such subsection and section 332 or 353 of this title for the same skill and period of service.

(g) REPAYMENT.—An officer who receives aviation incentive pay or an aviation bonus under this section and who fails to fulfill the eligibility requirements for the receipt of the incentive pay or bonus or complete the period of service for which the incentive pay or bonus is paid, as specified in the written agreement under subsection (d) in the case of a bonus, shall be subject to the repayment provisions of section 373 of this title.

(h) DEFINITIONS.—In this section:

(1) The term ''aviation service'' means service performed by an officer in a regular or reserve component (except a flight surgeon or other medical officer) while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.

(2) The term ''operational flying duty'' means flying performed under competent orders by rated or designated regular or reserve component officers while serving in assignments in which basic flying skills normally are maintained in the performance of assigned duties as determined by the Secretary concerned, and flying performed by members in training that leads to the award of an aeronautical rating or designation.

(3) The term ''proficiency flying duty'' means flying performed under competent orders by rated or designated regular or reserve component officers while serving in assignments in which such skills would normally not be maintained in the performance of assigned duties.

(4) The term ''officer'' includes an individual enlisted and designated as an aviation cadet under section 6911 of title 10.

(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2010.

(Added Pub. L. 110–181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 167; amended Pub. L. 110–417, [div. A], title VI, § 618(b), Oct. 14, 2008, 122 Stat. 4486; Pub. L. 111–84, div. A, title VI, § 614(4), Oct. 28, 2009, 123 Stat. 2353.)

AMENDMENTS

2009—Subsec. (i). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (f)(1). Pub. L. 110–417 substituted ''section 351(a)(2)'' for ''section 351''.

## § 335. Special bonus and incentive pay authorities for officers in health professions

(a) HEALTH PROFESSIONS BONUS.—The Secretary concerned may pay a health professions bonus under this section to a person, including an officer in the uniformed services, who is a graduate of an accredited school in a health profession and who—

(1) accepts a commission or appointment as an officer in a regular or reserve component of a uniformed service, or affiliates with a reserve component of a uniformed service, and agrees to serve on active duty in a regular component or in an active status in a reserve component in a health profession;

(2) accepts a commission or appointment as an officer and whose health profession specialty is designated by the Secretary of Defense as a critically short wartime specialty; or

(3) agrees to remain on active duty or continue serving in an active status in a reserve component in a health profession.

(b) HEALTH PROFESSIONS INCENTIVE PAY.—The Secretary concerned may pay incentive pay under this section to an officer in a regular or reserve component of a uniformed service who—

(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title; and

(2) is serving on active duty or in an active status in a designated health profession specialty or skill.

(c) BOARD CERTIFICATION INCENTIVE PAY.—The Secretary concerned may pay board certification incentive pay under this section to an officer in a regular or reserve component of a uniformed service who—

(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title;

(2) is board certified in a designated health profession specialty or skill; and

(3) is serving on active duty or in an active status in such designated health profession specialty or skill.

(d) ADDITIONAL ELIGIBILITY CRITERIA.—The Secretary concerned may impose such additional criteria for the receipt of a bonus or incentive pay under this section as the Secretary determines to be appropriate.

(e) MAXIMUM AMOUNT AND METHOD OF PAYMENT.—

(1) MAXIMUM AMOUNT.—The Secretary concerned shall determine the amounts of a bonus or incentive pay to be paid under this section, except that—

(A) a health professions bonus paid under paragraph (1) of subsection (a) may not exceed $30,000 for each 12-month period of obligated service agreed to under subsection (f);

(B) a health professions bonus paid under paragraph (2) of subsection (a) may not exceed $100,000 for each 12-month period of obligated service agreed to under subsection (f);

(C) a health professions bonus paid under paragraph (3) of subsection (a) may not exceed $75,000 for each 12-month period of obligated service agreed to under subsection (f);

(D) health professions incentive pay under subsection (b) may be paid monthly and may not exceed, in any 12-month period—

(i) $100,000 for medical officers and dental officers; and

(ii) $15,000 for officers in other health professions; and

(E) board certification incentive pay under subsection (c) may not exceed $6,000 for each 12-month period an officer remains certified in the designated health profession specialty or skill.

(2) LUMP SUM OR INSTALLMENTS.—A health professions bonus under subsection (a) may be paid in a lump sum or in periodic installments, as determined by the Secretary concerned. Board certification incentive pay under subsection (c) may be paid monthly, in a lump sum at the beginning of the certification period, or in periodic installments during the certification period, as determined by the Secretary concerned.

(3) FIXING BONUS AMOUNT.—Upon acceptance by the Secretary concerned of the written agreement required by subsection (f), the total amount of the health professions bonus to be paid under the agreement shall be fixed.

(f) WRITTEN AGREEMENT FOR BONUS.—To receive a bonus under this section, an officer determined to be eligible for the bonus shall enter into a written agreement with the Secretary concerned that specifies—

(1) the amount of the bonus;

(2) the method of payment of the bonus under subsection (e)(2);

(3) the period of obligated service;

(4) whether the service will be performed on active duty or in an active status in a reserve component; and

(5) the type or conditions of the service.

(g) RESERVE COMPONENT OFFICERS.—An officer in a reserve component authorized incentive pay under subsection (b) or (c) who is not serving on continuous active duty and is entitled to compensation under section 204 of this title or compensation under section 206 of this title may be paid a monthly amount of incentive pay that is proportionate to the basic pay or compensation received under this title.

(h) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—

(1) HEALTH PROFESSIONS BONUS.—A bonus paid to a person or officer under subsection (a) shall be in addition to any other pay and allowance to which the person or officer is entitled, except that a person or officer may not receive a payment under such subsection and section 332 of this title for the same period of obligated service.

(2) HEALTH PROFESSIONS INCENTIVE PAY.—Incentive pay paid to an officer under subsection (b) shall be in addition to any other pay and allowance to which an officer is entitled, except that an officer may not receive a payment under such subsection and section 353 of this title for the same skill and period of service.

(3) BOARD CERTIFICATION INCENTIVE PAY.—Incentive pay paid to an officer under subsection (c) shall be in addition to any other pay and allowance to which an officer is entitled, except that an officer may not receive a payment under such subsection and section 353(b) of this title for the same skill and period of service covered by the certification.

(i) REPAYMENT.—An officer who receives a bonus or incentive pay under this section and who fails to fulfill the eligibility requirements for the receipt of the bonus or incentive pay or complete the period of service for which the bonus or incentive pay is paid, as specified in the written agreement under subsection (f) in the case of a bonus, shall be subject to the repayment provisions of section 373 of this title.

(j) HEALTH PROFESSION DEFINED.—In this section, the term ''health profession'' means the following:

(1) Any health profession performed by officers in the Medical Corps of a uniformed service or by officers designated as a medical officer.

(2) Any health profession performed by officers in the Dental Corps of a uniformed service or by officers designated as a dental officer.

(3) Any health profession performed by officers in the Medical Service Corps of a uniformed service or by officers designated as a medical service officer or biomedical sciences officer.

(4) Any health profession performed by officers in the Medical Specialist Corps of a uniformed service or by officers designated as a medical specialist.

(5) Any health profession performed by officers of the Nurse Corps of a uniformed service or by officers designated as a nurse.

(6) Any health profession performed by officers in the Veterinary Corps of a uniformed service or by officers designated as a veterinary officer.

(7) Any health profession performed by officers designated as a physician assistant.

(8) Any health profession performed by officers in the regular or reserve corps of the Public Health Service.

(k) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2010.

(Added Pub. L. 110–181, div. A, title VI, §661(a)(2), Jan. 28, 2008, 122 Stat. 169; amended Pub. L. 110–417, [div. A], title VI, §618(c), Oct. 14, 2008, 122 Stat. 4486; Pub. L. 111–84, div. A, title VI, §614(5), Oct. 28, 2009, 123 Stat. 2354.)

AMENDMENTS

2009—Subsec. (k). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (e)(1)(D)(i). Pub. L. 110–417 substituted ''dental officers'' for ''dental surgeons''.

TARGETED BONUS AUTHORITY TO INCREASE DIRECT ACCESSIONS

Pub. L. 110–417, [div. A], title VI, §620(a), Oct. 14, 2008, 122 Stat. 4489, provided that:

''(1) DESIGNATION OF CRITICALLY SHORT WARTIME HEALTH SPECIALTIES.—For purposes of section 335 of title 37, United States Code, as added by section 661 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 169), the following health professions are designated as a critically short wartime specialty under subsection (a)(2) of such section:

''(A) Psychologists who have been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology and are fully licensed and such other mental health practitioners as the Secretary concerned determines to be necessary.

''(B) Registered nurses.

''(2) SPECIAL AGREEMENT AUTHORITY.—Under the authority provided by this section [enacting this note and section 302c–1 of this title], the Secretary concerned may enter into an agreement under subsection (f) of section 335 of title 37, United States Code, to pay a health professions bonus under such section to a person who accepts a commission or appointment as an officer and whose health profession specialty is specified in paragraph (1) of this subsection.

''(3) SECRETARY CONCERNED DEFINED.—In this subsection, the term 'Secretary concerned' has the meaning given that term in section 101(5) of title 37, United States Code.

''(4) EFFECTIVE PERIOD.—The designations made by this subsection and the authority to enter into an agreement under paragraph (2) of this subsection expire on September 30, 2010.''

## §351. Hazardous duty pay

(a) HAZARDOUS DUTY PAY.—The Secretary concerned may pay hazardous duty pay under this section to a member of a regular or reserve component of the uniformed services entitled to basic pay under section 204 of this title or compensation under section 206 of this title who—

(1) performs duty in a hostile fire area designated by the Secretary concerned, is exposed to a hostile fire event, explosion of a hostile explosive device, or any other hostile action, or is on duty during a month in an area in which a hostile event occurred which placed the member in grave danger of physical injury;

(2) performs duty designated by the Secretary concerned as hazardous duty based upon the inherent dangers of that duty and risks of physical injury; or

(3) performs duty in a foreign area designated by the Secretary concerned as an area in which the member is subject to imminent danger of physical injury due to threat conditions.

(b) MAXIMUM AMOUNT.—The amount of hazardous duty pay paid to a member under subsection (a) shall be based on the type of duty and the area in which the duty is performed, as follows:

(1) In the case of a member who performs duty in a designated hostile fire area, as described in subsection (a)(1), hazardous duty pay may not exceed $450 per month.

(2) In the case of a member who performs a designated hazardous duty, as described in subsection (a)(2), hazardous duty pay may not exceed $250 per month.

(3) In the case of a member who performs duty in a foreign area designated as an imminent danger area, as described in subsection (a)(3), hazardous duty pay may not exceed $250 per month.

(c) METHOD OF PAYMENT; PRORATION.—

(1) MONTHLY PAYMENT.—Subject to paragraph (2), hazardous duty pay shall be paid on a monthly basis.

(2) PRORATION.—If a member does not satisfy the eligibility requirements specified in paragraph (1), (2), or (3) of subsection (a) for an entire month for receipt of hazardous duty pay, the Secretary concerned may prorate the payment amount to reflect the duration of the member's actual qualifying service during the month.

(d) ADMINISTRATION AND RETROACTIVE PAYMENTS.—The effective date for the designation of a hostile fire area, as described in paragraph (1) of subsection (a), and for the designation of a foreign area as an imminent danger area, as described in paragraph (3) of such subsection, may be a date that occurs before, on, or after the actual date of the designation by the Secretary concerned.

(e) DETERMINATION OF FACT.—Any determination of fact that is made in connection with determining whether a triggering event has occurred for the provision of hazardous duty pay under subsection (a)(1) is conclusive. The determination may not be reviewed by any other offi-

cer or agency of the United States unless there has been fraud or gross negligence. However, the Secretary concerned may change the determination on the basis of new evidence or for other good cause.

(f) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—

(1) IN ADDITION TO OTHER PAY AND ALLOWANCES.—A member may be paid hazardous duty pay under this section in addition to any other pay and allowances to which the member is entitled. The regulations prescribed to administer this section shall address dual compensation under this section for multiple circumstances involving performance of a designated hazardous duty, as described in paragraph (2) of subsection (a), or for duty in certain designated areas, as described in paragraph (1) or (3) of such subsection, that is performed by a member during a single month of service.

(2) LIMITATION.—A member may not receive hazardous duty pay under this section for a month for more than three qualifying instances described in subsection (a)(2).

(g) PROHIBITION ON VARIABLE RATES.—The regulations prescribed to administer this section may not include varied criteria or rates for payment of hazardous duty for officers and enlisted members.

(h) TERMINATION OF AUTHORITY.—No hazardous duty pay under this section may be paid after December 31, 2010.

(Added Pub. L. 110–181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 172; amended Pub. L. 110–417, [div. A], title VI, § 618(d), (e), Oct. 14, 2008, 122 Stat. 4486; Pub. L. 111–84, div. A, title VI, §§ 614(6), 618(b), Oct. 28, 2009, 123 Stat. 2354, 2356.)

AMENDMENTS

2009—Subsecs. (c) to (h). Pub. L. 111–84, § 618(b), added subsec. (c), redesignated former subsecs. (e) to (i) as (d) to (h), respectively, and struck out former subsecs. (c) and (d), which related to method of payment and reserve component members performing inactive duty training.

Subsec. (i). Pub. L. 111–84, § 618(b)(1), redesignated subsec. (i) as (h).

Pub. L. 111–84, § 614(6), substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (c). Pub. L. 110–417, § 618(d), substituted ''paragraph (1) or (3) of subsection (a)'' for ''subsection (a)''.

Subsec. (f). Pub. L. 110–417, § 618(e), substituted ''in connection with determining whether a triggering event has occurred for the provision of hazardous duty pay under subsection (a)(1)'' for ''in administering subsection (a)'' and struck out at end ''The regulations prescribed to administer this section shall define the activities that are considered hazardous for purposes of subsection (a)(2).''

## § 352. Assignment pay or special duty pay

(a) ASSIGNMENT OR SPECIAL DUTY PAY AUTHORIZED.—The Secretary concerned may pay assignment or special duty pay under this section to a member of a regular or reserve component of the uniformed services who—

(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title; and

(2) performs duties in an assignment, location, or unit designated by, and under the conditions of service specified by, the Secretary concerned.

(b) MAXIMUM AMOUNT AND METHOD OF PAYMENT.—

(1) LUMP SUM OR INSTALLMENTS.—Assignment or special duty pay under subsection (a) may be paid monthly, in a lump sum, or in periodic installments other than monthly, as determined by the Secretary concerned. If paid monthly, the Secretary concerned may prorate the monthly amount of the assignment or special duty pay for a member who does not satisfy the eligibility requirement for an entire month to reflect the duration of the member's actual qualifying service during the month.

(2) MAXIMUM MONTHLY AMOUNT.—The maximum monthly amount of assignment or special duty pay may not exceed $5,000.

(3) MAXIMUM LUMP SUM AMOUNT.—The amount of a lump sum payment of assignment or special duty pay payable to a member may not exceed the amount equal to the product of—

(A) the maximum monthly rate authorized under paragraph (2) at the time the member enters into a written agreement under subsection (c); and

(B) the number of continuous months in the period for which assignment or special duty pay will be paid pursuant to the agreement.

(4) MAXIMUM INSTALLMENT AMOUNT.—The amount of each installment payment of assignment or special duty pay payable to a member on an installment basis may not exceed the amount equal to—

(A) the product of—

(i) a monthly rate specified in the written agreement entered into under subsection (c), which monthly rate may not exceed the maximum monthly rate authorized under paragraph (2) at the time the member enters into the agreement; and

(ii) the number of continuous months in the period for which the assignment or special duty pay will be paid; divided by

(B) the number of installments over such period.

(5) EFFECT OF EXTENSION.—If a member extends an assignment or performance of duty specified in an agreement with the Secretary concerned under subsection (c), assignment or special duty pay for the period of the extension may be paid on a monthly basis, in a lump sum, or in installments, consistent with this subsection.

(c) WRITTEN AGREEMENT.—

(1) DISCRETIONARY FOR MONTHLY PAYMENTS.—The Secretary concerned may require a member to enter into a written agreement with the Secretary in order to qualify for the payment of assignment or special duty pay on a monthly basis. The written agreement shall specify the period for which the assignment or special duty pay will be paid to the member and the

monthly rate of the assignment or special duty pay.

(2) REQUIRED FOR LUMP SUM OR INSTALLMENT PAYMENTS.—The Secretary concerned shall require a member to enter into a written agreement with the Secretary in order to qualify for payment of assignment or special duty pay on a lump sum or installment basis. The written agreement shall specify the period for which the assignment or special duty pay will be paid to the member and the amount of the lump sum or each periodic installment.

(d) RESERVE COMPONENT MEMBERS PERFORMING INACTIVE DUTY TRAINING.—A member of a reserve component entitled to compensation under section 206 of this title who is authorized assignment or special duty pay under this section may be paid an amount of assignment or special duty pay that is proportionate to the compensation received by the member under section 206 of this title for inactive-duty training.

(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Assignment or special duty pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

(f) REPAYMENT.—A member who receives assignment or special duty pay under this section and who fails to fulfill the eligibility requirements under subsection (a) for receipt of such pay shall be subject to the repayment provisions of section 373 of this title.

(g) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2010.

(Added Pub. L. 110–181, div. A, title VI, §661(a)(2), Jan. 28, 2008, 122 Stat. 173; amended Pub. L. 111–84, div. A, title VI, §§614(7), 618(c), Oct. 28, 2009, 123 Stat. 2354, 2356.)

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111–84, §618(c), inserted at end ''If paid monthly, the Secretary concerned may prorate the monthly amount of the assignment or special duty pay for a member who does not satisfy the eligibility requirement for an entire month to reflect the duration of the member's actual qualifying service during the month.''

Subsec. (g). Pub. L. 111–84, §614(7), substituted ''December 31, 2010'' for ''December 31, 2009''.

ADDITIONAL ASSIGNMENT PAY OR SPECIAL DUTY PAY AUTHORIZED FOR MEMBERS AGREEING TO SERVE IN AFGHANISTAN FOR EXTENDED PERIODS

Pub. L. 111–84, div. A, title VI, §619, Oct. 28, 2009, 123 Stat. 2357, provided that:

''(a) AUTHORITY TO PROVIDE ADDITIONAL ASSIGNMENT PAY OR SPECIAL DUTY PAY.—The Secretary of Defense may provide assignment pay or special duty pay under section 352 of title 37, United States Code, in excess of the maximum amount of monthly or lump sum assignment or special duty pay authorized under subsection (b) of such section, to members of the Armed Forces (particularly members who achieve language proficiency at levels and in languages specified by the Secretary of Defense) who agree to serve on active duty in Afghanistan for a minimum of three years. The assignment period required by the agreement shall provide for reasonable periods of leave.

''(b) REPORTING REQUIREMENTS.—The Secretary shall submit to Congress an annual report on the use of the authority provided under subsection (a) during the preceding year, including—

''(1) the number of members of the Armed Forces receiving assignment pay or special duty pay under section 352 of title 37, United States Code, in excess of the maximum amount otherwise authorized under such section; and

''(2) an assessment of the impact of the use of such authority on the effectiveness and efficiency in achieving the United States mission in Afghanistan.

''(c) DURATION OF AUTHORITY.—The authority provided by subsection (a) to offer additional assignment pay or special duty pay under section 352 of title 37, United States Code, expires on December 31, 2012. The expiration of such authority shall not affect the terms or duration of any agreement entered into before that date to provide additional assignment pay or special duty pay under such section.''

## §353. Skill incentive pay or proficiency bonus

(a) SKILL INCENTIVE PAY.—The Secretary concerned may pay a monthly skill incentive pay to a member of a regular or reserve component of the uniformed services who—

(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title; and

(2) serves in a career field or skill designated as critical by the Secretary concerned.

(b) SKILL PROFICIENCY BONUS.—

(1) AVAILABILITY; ELIGIBLE PERSONS.—The Secretary concerned may pay a proficiency bonus to a member of a regular or reserve component of the uniformed services who—

(A) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title or is enrolled in an officer training program; and

(B) is determined to have, and maintains, certified proficiency under subsection (d) in a skill designated as critical by the Secretary concerned or is in training to acquire proficiency in a critical foreign language or expertise in foreign cultural studies or a related skill designated as critical by the Secretary concerned.

(2) INCLUSION OF CERTAIN SENIOR ROTC MEMBERS.—A proficiency bonus may be paid under this subsection to a student who is enrolled in the Senior Reserve Officers' Training Corps program even though the student is in the first year of the four-year course under the program. During the period covered by the proficiency bonus, the student shall also be entitled to a monthly subsistence allowance under section 209(c) of this title even though the student has not entered into an agreement under section 2103a of title 10. However, if the student receives incentive pay under subsection (g)(2)[1] for the same period, the student may receive only a single monthly subsistence allowance under section 209(c) of this title.

(c) MAXIMUM AMOUNTS AND METHODS OF PAYMENT.—

(1) SKILL INCENTIVE PAY.—(A) Skill incentive pay under subsection (a) may not exceed $1,000 a month.

(B) If a member does not satisfy the eligibility requirements specified in paragraphs (1) and (2) of subsection (a) for an entire month

[1] See References in Text note below.

for receipt of skill incentive pay, the Secretary concerned may prorate the payment amount to reflect the duration of the member's actual qualifying service during the month. A member of a reserve component entitled to compensation under section 206 of this title who is authorized skill incentive pay under subsection (a) may be paid an amount of such pay that is proportionate to the compensation received by the member under section 206 of this title for inactive-duty training.

(2) PROFICIENCY BONUS.—A proficiency bonus under subsection (b) may be paid in a lump sum at the beginning of the proficiency certification period or in periodic installments during the proficiency certification period. The amount of the bonus may not exceed $12,000 for each 12-month period of certification. The Secretary concerned may not vary the criteria or rates for the proficiency bonus paid for officers and enlisted members.

(d) CERTIFIED PROFICIENCY FOR PROFICIENCY BONUS.—

(1) CERTIFICATION REQUIRED.—Proficiency in a designated critical skill for purposes of subsection (b) shall be subject to annual certification by the Secretary concerned.

(2) DURATION OF CERTIFICATION.—A certification period for purposes of subsection (c)(2) shall expire at the end of the one-year period beginning on the first day of the first month beginning on or after the certification date.

(3) WAIVER.—Notwithstanding paragraphs (1) and (2), the regulations prescribed to administer this section shall address the circumstances under which the Secretary concerned may waive the certification requirement under paragraph (1) or extend a certification period under paragraph (2).

(e) WRITTEN AGREEMENT.—

(1) DISCRETIONARY FOR SKILL INCENTIVE PAY.—The Secretary concerned may require a member to enter into a written agreement with the Secretary in order to qualify for the payment of skill incentive pay under subsection (a). The written agreement shall specify the period for which the skill incentive pay will be paid to the member and the monthly rate of the pay.

(2) REQUIRED FOR PROFICIENCY BONUS.—The Secretary concerned shall require a member to enter into a written agreement with the Secretary in order to qualify for payment of a proficiency bonus under subsection (b). The written agreement shall specify the amount of the proficiency bonus, the period for which the bonus will be paid, and the initial certification or recertification necessary for payment of the proficiency bonus.

(f) FOREIGN LANGUAGE STUDIES IN OFFICER TRAINING PROGRAMS.—

(1) AVAILABILITY OF INCENTIVE PAY.—The Secretary concerned may pay incentive pay to a person enrolled in an officer training program to also participate in an education or training program to acquire proficiency in a critical foreign language or expertise in foreign cultural studies or a related skill designated as critical by the Secretary concerned.

(2) INCLUSION OF CERTAIN SENIOR ROTC MEMBERS.—Incentive pay may be paid under this subsection to a student who is enrolled in the Senior Reserve Officers' Training Corps program even though the student is in the first year of the four-year course under the program. While the student receives the incentive pay, the student shall also be entitled to a monthly subsistence allowance under section 209(c) of this title even though the student has not entered into an agreement under section 2103a of title 10. However, if the student receives a proficiency bonus under subsection (b)(2) covering the same month, the student may receive only a single monthly subsistence allowance under section 209(c) of this title.

(3) CRITICAL FOREIGN LANGUAGE DEFINED.—In this section, the term ''critical foreign language'' includes Arabic, Korean, Japanese, Chinese, Pashto, Persian-Farsi, Serbian-Croatian, Russian, Portuguese, or other language designated as critical by the Secretary concerned.

(g) REPAYMENT.—A member who receives skill incentive pay or a proficiency bonus under this section and who fails to fulfill the eligibility requirement for receipt of the pay or bonus shall be subject to the repayment provisions of section 373 of this title.

(h) RELATIONSHIP TO OTHER PAYS AND ALLOWANCES.—A member may not be paid more than one pay under this section in any month for the same period of service and skill. A member may be paid skill incentive pay or the proficiency bonus under this section in addition to any other pay and allowances to which the member is entitled, except that a member may not be paid skill incentive pay or a proficiency bonus under this section and hazardous duty pay under section 351 of this title for the same period of service in the same career field or skill.

(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after December 31, 2010.

(Added Pub. L. 110–181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 175; amended Pub. L. 110–417, [div. A], title VI, § 619(a), Oct. 14, 2008, 122 Stat. 4487; Pub. L. 111–84, div. A, title VI, §§ 614(8), 618(d), Oct. 28, 2009, 123 Stat. 2354, 2356.)

REFERENCES IN TEXT

Subsection (g)(2), referred to in subsec. (b)(2), was redesignated subsec. (f)(2) by Pub. L. 111–84, div. A, title VI, § 618(d)(1), Oct. 28, 2009, 123 Stat. 2356.

AMENDMENTS

2009—Subsec. (c)(1). Pub. L. 111–84, § 618(d)(2), added par. (1) and struck out former par. (1) which provided that skill incentive pay was not to exceed $1,000 per month.

Subsecs. (f) to (i). Pub. L. 111–84, § 618(d)(1), redesignated subsecs. (g) to (j) as (f) to (i), respectively, and struck out former subsec. (f) which related to reserve component members performing inactive duty training.

Subsec. (j). Pub. L. 111–84, § 618(d)(1), redesignated subsec. (j) as (i).

Pub. L. 111–84, § 614(8), substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (b). Pub. L. 110–417, § 619(a)(1), amended subsec. (b) generally. Prior to amendment, text read as follows: ''The Secretary concerned may pay a pro-

ficiency bonus to a member of a regular or reserve component of the uniformed services who—

''(1) is entitled to basic pay under section 204 of this title or compensation under section 206 of this title; and

''(2) is determined to have, and maintains, certified proficiency under subsection (d) in a skill designated as critical by the Secretary concerned.''

Subsecs. (g) to (j). Pub. L. 110–417, §619(a)(2), added subsec. (g) and redesignated former subsecs. (g) to (i) as (h) to (j), respectively.

PILOT PROGRAM FOR FOREIGN LANGUAGE PROFICIENCY TRAINING FOR RESERVE MEMBERS

Pub. L. 110–417, [div. A], title VI, §619(c), Oct. 14, 2008, 122 Stat. 4489, provided that:

''(1) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall conduct a pilot program to provide a skill proficiency bonus under section 353(b) of title 37, United States Code, to a member of a reserve component of the uniformed services who is entitled to compensation under section 206 of such title while the member participates in an education or training program to acquire proficiency in a critical foreign language or expertise in foreign cultural studies or a related skill designated as critical under such section 353.

''(2) DURATION OF PILOT PROGRAM.—The Secretary shall conduct the pilot program during the period beginning on October 1, 2008, and ending on December 31, 2013. Incentive pay may not be provided under the pilot program after December 31, 2013.

''(3) REPORTING REQUIREMENT.—Not later than March 31, 2012, the Secretary shall submit to Congress a report containing the results of the pilot program and the recommendations of the Secretary regarding whether to continue or expand the pilot program.''

EXPEDITED IMPLEMENTATION

Pub. L. 110–417, [div. A], title VI, §619(d), Oct. 14, 2008, 122 Stat. 4489, provided that: ''Notwithstanding section 662 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 180; 37 U.S.C. 301 note), the Secretary of a military department may immediately implement the amendments made by subsection (a) [amending this section] in order to ensure the prompt availability of proficiency bonuses and incentive pay under section 353 of title 37, United States Code, as amended by such subsections [sic], for persons enrolled in officer training programs.''

## §354. Special pay: 15-year career status bonus for members entering service on or after August 1, 1986

(a) AVAILABILITY OF BONUS.—The Secretary concerned shall pay a bonus under this section to an eligible career bonus member if the member—

(1) elects to receive the bonus under this section; and

(2) executes a written agreement (prescribed by the Secretary concerned) to remain continuously on active duty until the member has completed 20 years of active-duty service creditable under section 1405 of title 10.

(b) ELIGIBLE CAREER BONUS MEMBER DEFINED.—In this section, the term ''eligible career bonus member'' means a member of a uniformed service serving on active duty who—

(1) first became a member on or after August 1, 1986; and

(2) has completed 15 years of active duty in the uniformed services (or has received notification under subsection (e) that the member is about to complete that duty).

(c) ELECTION METHOD.—An election under subsection (a)(1) shall be made in such form and within such period as the Secretary concerned may prescribe. An election under that subsection is irrevocable.

(d) AMOUNT OF BONUS; PAYMENT.—(1) A bonus under this section shall be equal to $30,000.

(2) A member electing to receive the bonus under this section shall elect one of the following payment options:

(A) A single lump sum of $30,000.

(B) Two installments of $15,000 each.

(C) Three installments of $10,000 each.

(D) Four installments of $7,500 each.

(E) Five installments of $6,000 each.

(3) If a member elects installment payments under paragraph (2), the second installment (and subsequent installments, as applicable) shall be paid on the earlier of the following dates:

(A) The annual anniversary date of the payment of the first installment.

(B) January 15 of each succeeding calendar year.

(4) The lump sum payment of the bonus, and the first installment payment in the case of members who elect to receive the bonus in installments, shall be paid to an eligible career bonus member not later than the first month that begins on or after the date that is 60 days after the date on which the Secretary concerned receives from the member the election required under subsection (a)(1) and the written agreement required under subsection (a)(2), if applicable.

(e) NOTIFICATION OF ELIGIBILITY.—(1) The Secretary concerned shall transmit to each member who meets the definition of eligible career bonus member a written notification of the opportunity of the member to elect to receive a bonus under this section. The Secretary shall provide the notification not later than 180 days before the date on which the member will complete 15 years of active duty.

(2) The notification shall include the following:

(A) The procedures for electing to receive the bonus.

(B) An explanation of the effects under sections 1401a, 1409, and 1410 of title 10 that such an election has on the computation of any retired or retainer pay that the member may become eligible to receive.

(f) REPAYMENT.—If a person paid a bonus under this section does not complete a period of active duty beginning on the date on which the election of the person under paragraph (1) of subsection (a) is received and ending on the date on which the person completes 20 years of active duty service as described in paragraph (2) of such subsection, the person shall be subject to the repayment provisions of section 373 of this title.

(Added Pub. L. 106–65, div. A, title VI, §642(a), Oct. 5, 1999, 113 Stat. 662, §322; amended Pub. L. 107–107, div. A, title VI, §620(a), Dec. 28, 2001, 115 Stat. 1138; Pub. L. 109–163, div. A, title VI, §687(b)(30), Jan. 6, 2006, 119 Stat. 3332; renumbered §354 and amended Pub. L. 110–181, div. A,

title VI, § 661(b)(1), (2), Jan. 28, 2008, 122 Stat. 178.)

AMENDMENTS

2008—Pub. L. 110–181, § 661(b)(1), renumbered section 322 of this title as this section.

Subsec. (f). Pub. L. 110–181, § 661(b)(2), substituted ''section 373'' for ''section 303a(e)''.

2006—Subsec. (f). Pub. L. 109–163, amended heading and text of subsec. (f) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to repayment required when person elects to receive bonus to remain continuously on active duty until completion of 20 years but fails to complete total period.

2001—Subsec. (d)(1). Pub. L. 107–107, § 620(a)(1), substituted ''equal to $30,000'' for ''paid in a single lump sum of $30,000''.

Subsec. (d)(2) to (4). Pub. L. 107–107, § 620(a)(2), (3), added pars. (2) and (3), redesignated former par. (2) as (4), and substituted therein ''The lump sum payment of the bonus, and the first installment payment in the case of members who elect to receive the bonus in installments,'' for ''The bonus''.

EFFECTIVE DATE

Section effective Oct. 1, 1999, see section 644 of Pub. L. 106–65, set out as an Effective Date of 1999 Amendment note under section 1401a of Title 10, Armed Forces.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

APPLICATION TO EXISTING AGREEMENTS

Pub. L. 107–107, div. A, title VI, § 620(b), Dec. 28, 2001, 115 Stat. 1139, provided that: ''The Secretary concerned (as defined in section 101(5) of title 37, United States Code) shall extend to each member of the uniformed services who has executed the written agreement required by subsection (a)(2) of section 322 [now 354] of such title before the date of the enactment of this Act [Dec. 28, 2001], but who has not received the lump sum payment by that date, an opportunity to make the election authorized by subsection (d) of such section, as amended by this section.''

## § 355. Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units

(a) RETENTION BONUS AUTHORIZED.—An officer or enlisted member of the armed forces who is serving on active duty in a regular component or in an active status in a reserve component and who is qualified in a critical military skill designated under subsection (b) or accepts an assignment to a high priority unit designated under such subsection may be paid a retention bonus as provided in this section if—

(1) in the case of an officer, the member executes a written agreement to remain on active duty for at least one year or to remain in an active status in a reserve component for at least one year;

(2) in the case of an enlisted member, other than an enlisted member referred to in paragraph (3), the member reenlists or voluntarily extends the member's enlistment for a period of at least one year; or

(3) in the case of an enlisted member serving pursuant to an indefinite reenlistment, the member executes a written agreement to remain on active duty for a period of at least one year or to remain in an active status in a reserve component for a period of at least one year.

(b) ELIGIBILITY CRITERIA.—(1) A designated critical military skill referred to in subsection (a) is a military skill designated as critical by the Secretary of Defense, or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may designate a unit as a high priority unit regarding which a retention bonus will be provided to a member of the armed forces who agrees to accept an assignment to the unit under subsection (a).

(c) PAYMENT METHODS.—A bonus under this section may be paid in a single lump sum or in periodic installments.

(d) MAXIMUM BONUS AMOUNT.—(1) A member may enter into an agreement under this section, or reenlist or voluntarily extend the member's enlistment, more than once to receive a bonus under this section. However, a member may not receive a total of more than $200,000 (or $100,000 in the case of a reserve component member) in payments under this section.

(2) The limitation in paragraph (1) on the total bonus payments that a member may receive under this section does not apply with respect to an officer who is assigned duties as a health care professional.

(e) CERTAIN MEMBERS INELIGIBLE.—(1) A retention bonus may not be provided under subsection (a) to a member of the armed forces who—

(A) has completed more than 25 years of active duty or service in an active status in a reserve component; or

(B) will complete the member's twenty-fifth year of active duty or service in an active status in a reserve component before the end of the period of active duty or service in an active status in a reserve component for which the bonus is being offered.

(2) The limitations in paragraph (1) do not apply with respect to an officer who, during the period of active duty or service in an active status in a reserve component for which the bonus is being offered, is assigned duties as a health care professional.

(3) The limitations in paragraph (1) do not apply with respect to a member who, during the period of active duty or service in an active status in a reserve component for which the bonus is being offered—

(A) is qualified in a skill designated as critical under subsection (b)(1) related to special operations forces; or

(B) is qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

(4) The Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast

Guard when it is not operating as a service in the Navy, may waive the limitations in paragraph (1) with respect to a member who, during the period of active duty or service in an active status in a reserve component for which the bonus is being offered, is assigned duties in a skill designated as critical under subsection (b)(1). The authority to grant a waiver under this paragraph may not be delegated below the Under Secretary of Defense for Personnel and Readiness or the Deputy Secretary of the Department of Homeland Security.

(f) RELATIONSHIP TO OTHER INCENTIVES.—A retention bonus paid under this section is in addition to any other pay and allowances to which a member is entitled.

(g) REPAYMENT.—A member paid a bonus under this section who fails, during the period of service covered by the member's agreement, reenlistment, or voluntary extension of enlistment under subsection (a), to remain qualified in the critical military skill or to satisfy the other eligibility criteria for which the bonus was paid shall be subject to the repayment provisions of section 373 of this title.

(h) ANNUAL REPORT.—Not later than February 15 of each year, the Secretary of Defense and the Secretary of Homeland Security shall submit to Congress a report—

(1) analyzing the effect, during the preceding fiscal year, of the provision of bonuses under this section on the retention of members of the armed forces who were offered a bonus under this section; and

(2) describing the intentions of the Secretary regarding the continued use of the bonus authority during the current and next fiscal years.

(i) TERMINATION OF BONUS AUTHORITY.—No bonus may be paid under this section with respect to any reenlistment, or voluntary extension of an enlistment, in the armed forces entered into after December 31, 2010, and no agreement under this section may be entered into after that date.

(Added Pub. L. 106–398, §1 [[div. A], title VI, §633(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–157, §323; amended Pub. L. 107–107, div. A, title VI, §614(d), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, §§614(d), 618, Dec. 2, 2002, 116 Stat. 2568, 2570; Pub. L. 108–136, div. A, title VI, §§614(d), 622, title X, §1045(b)(1), Nov. 24, 2003, 117 Stat. 1501, 1505, 1612; Pub. L. 108–375, div. A, title VI, §§614(e), 621, title X, §1084(e)(2), Oct. 28, 2004, 118 Stat. 1948, 1954, 2064; Pub. L. 109–163, div. A, title VI, §§624(e), 640(a)–(f)(1), 687(b)(31), Jan. 6, 2006, 119 Stat. 3295, 3302, 3303, 3332; Pub. L. 109–364, div. A, title VI, §614(e), Oct. 17, 2006, 120 Stat. 2248; renumbered §355 and amended Pub. L. 110–181, div. A, title VI, §§614(d), 622, 661(c), Jan. 28, 2008, 122 Stat. 149, 152, 178; Pub. L. 110–417, [div. A], title VI, §614(h), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111–84, div. A, title VI, §614(9), Oct. 28, 2009, 123 Stat. 2354.)

AMENDMENTS

2009—Subsec. (i). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Pub. L. 110–181, §661(c)(1), renumbered section 323 of this title as this section.

Subsec. (e)(4). Pub. L. 110–181, §622, added par. (4).

Subsec. (g). Pub. L. 110–181, §661(c)(2), substituted ''section 373'' for ''section 303a(e)''.

Subsec. (i). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181, §614(d), substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Pub. L. 109–163, §640(f)(1), substituted ''Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units'' for ''Special pay: retention incentives for members qualified in a critical military skill'' in section catchline.

Subsec. (a). Pub. L. 109–163, §640(a)(1)(A), (b)(1), in introductory provisions, substituted ''who is serving on active duty in a regular component or in an active status in a reserve component and who'' for ''who is serving on active duty and'' and ''critical military skill designated under subsection (b) or accepts an assignment to a high priority unit designated under such subsection'' for ''designated critical military skill''.

Subsec. (a)(1). Pub. L. 109–163, §640(a)(1)(B), inserted ''or to remain in an active status in a reserve component for at least one year'' before semicolon.

Subsec. (a)(3). Pub. L. 109–163, §640(a)(1)(C), inserted ''or to remain in an active status in a reserve component for a period of at least one year'' before period.

Subsec. (b). Pub. L. 109–163, §640(b)(2), substituted ''Eligibility Criteria'' for ''Designation of Critical Skills'' in heading, designated existing provisions as par. (1), and added par. (2).

Subsec. (d)(1). Pub. L. 109–163, §640(c), inserted ''(or $100,000 in the case of a reserve component member)'' after ''$200,000''.

Subsec. (e)(1)(A). Pub. L. 109–163, §640(a)(2), inserted ''or service in an active status in a reserve component'' after ''active duty''.

Subsec. (e)(1)(B). Pub. L. 109–163, §640(a)(2), inserted ''or service in an active status in a reserve component'' after ''active duty'' in two places.

Subsec. (e)(2), (3). Pub. L. 109–163, §640(d), added pars. (2) and (3) and struck out former par. (2) which read as follows: ''The limitations in paragraph (1) do not apply with respect to an officer who is assigned duties as a health care professional during the period of active duty for which the bonus is being offered.''

Subsec. (g). Pub. L. 109–163, §687(b)(31), amended heading and text of subsec. (g) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to repayment required when member fails to remain technically qualified in critical military skill or to satisfy other eligibility criteria for which bonus was paid.

Subsec. (g)(1). Pub. L. 109–163, §640(e), substituted ''If a member paid a bonus under this section fails, during the period of service covered by the member's agreement, reenlistment, or voluntary extension of enlistment under subsection (a), to remain qualified in the critical military skill or to satisfy the other eligibility criteria for which the bonus was paid,'' for ''If an officer who has entered into a written agreement under subsection (a) fails to complete the total period of active duty specified in the agreement, or an enlisted member who voluntarily or because of misconduct does not complete the term of enlistment for which a bonus was paid under this section,''.

Subsec. (h)(1). Pub. L. 109–163, §640(b)(3), substituted ''members of the armed forces who were offered a bonus under this section'' for ''members qualified in the critical military skills for which the bonuses were offered''.

Subsec. (i). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Pub. L. 109–163, §624(e), substituted ''December 31, 2006'' for ''December 31, 2005''.

2004—Subsec. (a). Pub. L. 108–375, §621, inserted ''other than an enlisted member referred to in paragraph (3),'' after ''enlisted member,'' in par. (2) and added par. (3).

Subsec. (h). Pub. L. 108–375, § 1084(e)(2), substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation'' in introductory provisions.

Subsec. (i). Pub. L. 108–375, § 614(e), substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (a). Pub. L. 108–136, § 1045(b)(1), substituted ''one year'' for ''1 year'' in pars. (1) and (2).

Subsec. (b). Pub. L. 108–136, § 622, struck out ''(1)'' before ''A designated'' and par. (2) which read as follows: ''The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall notify Congress, in advance, of each military skill to be designated by the Secretary as critical for purposes of this section. The notice shall be submitted at least 90 days before any bonus with regard to that critical skill is offered under subsection (a) and shall include a discussion of the necessity for the bonus, the amount and method of payment of the bonus, and the retention results that the bonus is expected to achieve.''

Subsec. (i). Pub. L. 108–136, § 614(d), substituted ''December 31, 2004'' for ''December 31, 2003''.

2002—Subsec. (b). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation'' in pars. (1) and (2).

Subsec. (d). Pub. L. 107–314, § 618(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 107–314, § 618(b), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (g)(1). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (i). Pub. L. 107–314, § 614(d), substituted ''December 31, 2003'' for ''December 31, 2002''.

2001—Subsec. (i). Pub. L. 107–107 substituted ''December 31, 2002'' for ''December 31, 2001''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 614(d) of Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE

Pub. L. 106–398, § 1 [[div. A], title VI, § 633(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–158, provided that: ''Section 323 [now 355] of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2000.''

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

## SUBCHAPTER III—GENERAL PROVISIONS

### § 371. Relationship to other incentives and pays

(a) TREATMENT.—A bonus or incentive pay paid to a member of the uniformed services under subchapter II is in addition to any other pay and allowance to which a member is entitled, unless otherwise provided under this chapter.

(b) EXCEPTION.—A member may not receive a bonus or incentive pay under both subchapter I and subchapter II for the same activity, skill, or period of service.

(c) RELATIONSHIP TO OTHER COMPUTATIONS.—The amount of a bonus or incentive pay to which a member is entitled under subchapter II may not be included in computing the amount of—

(1) any increase in pay authorized by any other provision of this title; or

(2) any retired pay, retainer pay, separation pay, or disability severance pay.

(Added Pub. L. 110–181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 176.)

### § 372. Continuation of pays during hospitalization and rehabilitation resulting from wounds, injury, or illness incurred while on duty in a hostile fire area or exposed to an event of hostile fire or other hostile action

(a) CONTINUATION OF PAYS.—If a member of a regular or reserve component of a uniformed service incurs a wound, injury, or illness in the line of duty while serving in a combat operation or a combat zone, while serving in a hostile fire area, or while exposed to a hostile fire event, as described under section 351 of this title, and is hospitalized for treatment of the wound, injury, or illness, the Secretary concerned may continue to pay to the member, notwithstanding any provision of this chapter to the contrary, all pay and allowances (including any bonus, incentive pay, or similar benefit) that were being paid to the member at the time the member incurred the wound, injury, or illness.

(b) DURATION.—The payment of pay and allowances to a member under subsection (a) may continue until the end of the first month beginning after the earliest of the following dates:

(1) The date on which the member is returned for assignment to other than a medical or patient unit for duty.

(2) One year after the date on which the member is first hospitalized for the treatment of the wound, injury, or illness, except that the Secretary concerned may extend the termination date in six-month increments.

(3) The date on which the member is discharged, separated, or retired (including temporary disability retirement) from the uniformed services.

(c) BONUS, INCENTIVE PAY, OR SIMILAR BENEFIT DEFINED.—In this section, the term ''bonus, incentive pay, or similar benefit'' means a bonus, incentive pay, special pay, or similar payment paid to a member of the uniformed services under this title or title 10.

(Added Pub. L. 110–181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 176.)

### § 373. Repayment of unearned portion of bonus, incentive pay, or similar benefit, and termination of remaining payments, when conditions of payment not met

(a) REPAYMENT AND TERMINATION.—Except as provided in subsection (b), a member of the uni-

formed services who is paid a bonus, incentive pay, or similar benefit, the receipt of which is contingent upon the member's satisfaction of certain service or eligibility requirements, shall repay to the United States any unearned portion of the bonus, incentive pay, or similar benefit if the member fails to satisfy any such service or eligibility requirement, and the member may not receive any unpaid amounts of the bonus, incentive pay, or similar benefit after the member fails to satisfy such service or eligibility requirement.

(b) EXCEPTIONS.—

(1) DISCRETION TO PROVIDE EXCEPTION TO TERMINATION AND REPAYMENT REQUIREMENTS.—Pursuant to the regulations prescribed to administer this section, the Secretary concerned may grant an exception to the repayment requirement and requirement to terminate the payment of unpaid amounts of a bonus, incentive pay, or similar benefit if the Secretary concerned determines that the imposition of the repayment and termination requirements with regard to a member of the uniformed services would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States.

(2) SPECIAL RULE FOR DECEASED AND DISABLED MEMBERS.—(A) If a member of the uniformed services dies or is retired or separated with a combat-related disability, the Secretary concerned—

(i) shall not require repayment by the member or the member's estate of the unearned portion of any bonus, incentive pay, or similar benefit previously paid to the member; and

(ii) shall require the payment to the member or the member's estate of the remainder of any bonus, incentive pay, or similar benefit that was not yet paid to the member, but to which the member was entitled immediately before the death, retirement, or separation of the member, and would be paid if not for the death, retirement, or separation of the member.

(B) Subparagraph (A) does not apply if the death or disability of the member is the result the member's misconduct.

(C) The amount to be paid under subparagraph (A)(ii) shall be equal to the full amount specified by the agreement or contract applicable to the bonus, incentive pay, or similar benefit as if the member continued to be entitled to the bonus, incentive pay, or similar benefit following the death, retirement, or separation.

(D) Amounts to be paid to a member or the member's estate under subparagraph (A)(ii) shall be paid in a lump sum not later than 90 days after the date of the death, retirement, or separation of the member, whichever applies.

(E) In this paragraph, the term ''combat-related disability'' has the meaning given that term in section 1413a(e) of title 10.

(3) SPECIAL RULE FOR MEMBERS WHO RECEIVE SOLE SURVIVORSHIP DISCHARGE.—(A) If a member of the uniformed services receives a sole survivorship discharge, the Secretary concerned—

(i) shall not require repayment by the member of the unearned portion of any bonus, incentive pay, or similar benefit previously paid to the member; and

(ii) may grant an exception to the requirement to terminate the payment of any unpaid amounts of a bonus, incentive pay, or similar benefit if the Secretary concerned determines that termination of the payment of the unpaid amounts would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States.

(B) In this paragraph, the term ''sole survivorship discharge'' means the separation of a member from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early separation of a member who is the only surviving child in a family in which—

(i) the father or mother or one or more siblings—

(I) served in the Armed Forces; and

(II) was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization); and

(ii) the death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence.

(c) EFFECT OF BANKRUPTCY.—An obligation to repay the United States under this section is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after—

(1) the date of the termination of the agreement or contract on which the debt is based; or

(2) in the absence of such an agreement or contract, the date of the termination of the service on which the debt is based.

(d) DEFINITIONS.—In this section:

(1) The term ''bonus, incentive pay, or similar benefit'' means a bonus, incentive pay, special pay, or similar payment, or an educational benefit or stipend, paid to a member of the uniformed services under a provision of law that refers to the repayment requirements of this section or section 303a(e) of this title.

(2) The term ''service'', as used in subsection (c)(2), refers to an obligation willingly undertaken by a member of the uniformed services, in exchange for a bonus, incentive pay, or similar benefit offered by the Secretary concerned—

(A) to a member in a regular or reserve component who remains on active duty or in an active status;

(B) to perform duty in a specified skill, with or without a specified qualification or credential;

(C) to perform duty in a specified assignment, location or unit; or

(D) to perform duty for a specified period of time.

(Added Pub. L. 110–181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 177; amended Pub. L. 110–417, [div. A], title VI, § 651(c)(1), (2)(A), Oct. 14, 2008, 122 Stat. 4496, 4497; Pub. L. 111–84, div. A, title VI, § 617(b), Oct. 28, 2009, 123 Stat. 2355.)

AMENDMENTS

2009—Subsec. (b)(2). Pub. L. 111–84, § 617(b)(1), substituted ''Special rule for deceased and disabled members'' for ''Mandatory payment of unpaid amounts under certain circumstances; no repayment of unearned amounts'' in heading.

Subsec. (b)(3). Pub. L. 111–84, § 617(b)(2), added par. (3).

2008—Pub. L. 110–417, § 651(c)(2)(A), substituted ''Repayment of unearned portion of bonus, incentive pay, or similar benefit, and termination of remaining payments, when conditions of payment not met'' for ''Repayment of unearned portion of bonus, incentive pay, or similar benefit when conditions of payment not met'' in section catchline.

Subsec. (a). Pub. L. 110–417, § 651(c)(1)(A), inserted ''and Termination'' after ''Repayment'' in heading and '', and the member may not receive any unpaid amounts of the bonus, incentive pay, or similar benefit after the member fails to satisfy such service or eligibility requirement'' in text before period at end.

Subsec. (b). Pub. L. 110–417, § 651(c)(1)(B), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: ''The regulations prescribed to administer this section may specify procedures for determining the circumstances under which an exception to the required repayment may be granted.''

### § 374. Regulations

This subchapter and subchapter II shall be administered under regulations prescribed by—

(1) the Secretary of Defense, with respect to the armed forces under the jurisdiction of the Secretary of Defense;

(2) the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy;

(3) the Secretary of Health and Human Services, with respect to the commissioned corps of the Public Health Service; and

(4) the Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

(Added Pub. L. 110–181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 178.)

## CHAPTER 7—ALLOWANCES


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411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents.

411e. Travel and transportation allowances: transportation incident to certain emergencies for members performing temporary duty.

411f. Travel and transportation allowances: transportation for survivors of deceased member to attend member's burial ceremonies; transportation for survivors of member dying overseas to attend transfer ceremonies.

411g. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty.

411h. Travel and transportation allowances: transportation of designated individuals incident to hospitalization of members for treatment of wounds, illness, or injury.

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[1] So in original. Does not conform to section catchline.

Sec.
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431. Benefits for certain members assigned to the Defense Intelligence Agency.
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AMENDMENTS

2009—Pub. L. 111–84, div. A, title V, §542(b)(2)(B), title VI, §§603(c), 632(g)(2), 633(a)(2), Oct. 28, 2009, 123 Stat. 2300, 2350, 2362, 2363, added items 411f, 411k, and 439, struck out former item 411f ''Travel and transportation allowances: transportation for survivors of deceased member to attend the member's burial ceremonies'', and substituted ''Travel and transportation allowances: transportation of designated individuals incident to hospitalization of members for treatment of wounds, illness, or injury'' for ''Travel and transportation allowances: transportation of family members incident to illness or injury of members'' in item 411h.

2008—Pub. L. 110–417, [div. A], title VII, §714(b), Oct. 14, 2008, 122 Stat. 4505, added item 438.

Pub. L. 110–181, div. A, title VI, §§631(a)(2), 633(a)(2), Jan. 28, 2008, 122 Stat. 154, 155, added items 408a and 433a.

2006—Pub. L. 109–364, div. A, title VI, §606(c), title X, §1071(c)(5), Oct. 17, 2006, 120 Stat. 2246, 2401, substituted ''dislocation allowance'' for ''dislocation allowances'' in item 407, inserted ''Corps'' after ''United States Marine'' in item 425, and struck out ''portion of'' before ''monthly'' in item 437.

Pub. L. 109–163, div. A, title VI, §§613(b), 651(b)(2), 653(b) Jan. 6, 2006, 119 Stat. 3292, 3311, 3313, added items 411j and 437 and substituted ''Travel and transportation allowances: payment of lodging expenses at temporary duty location during authorized absence of member'' for ''Travel and transportation allowances: lodging expenses at temporary duty location for members on authorized leave'' in item 404b.

2005—Pub. L. 109–13, div. A, title I, §1026(b)(2), May 11, 2005, 119 Stat. 254, substituted ''illness or injury of members'' for ''the serious illness or injury of members'' in item 411h.

2004—Pub. L. 108–375, div. A, title VI, §605(b)(3), Oct. 28, 2004, 118 Stat. 1945, substituted ''continental United States'' for ''United States or in Hawaii or Alaska'' in item 405.

2003—Pub. L. 108–136, div. A, title V, §541(b)(5)(B), title VI, §635(b), Nov. 24, 2003, 117 Stat. 1477, 1511, added item 404b and substituted ''High-deployment allowance: lengthy or numerous deployments; frequent mobilizations'' for ''Per diem allowance for lengthy or numerous deployments'' in item 436.

2000—Pub. L. 106–398, §1 [[div. A], title X, §1087(c)(1)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292, made technical amendment to directory language of Pub. L. 106–65, §586(c)(2). See 1999 Amendment note below.

Pub. L. 106–398, §1 [[div. A], title X, §1087(c)(1)(A)(ii)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292, made technical amendment to directory language of Pub. L. 106–65, §578(k)(4). See 1999 Amendment note below.

Pub. L. 106–398, §1 [[div. A], title VI, §§604(a)(2), 645(b), title X, §1087(b)(4)], Oct. 30, 2000, 114 Stat. 1654, 1654A–147, 1654A–162, 1654A–292, added items 402a and 411i and redesignated item 435 ''Per diem allowance for lengthy or numerous deployments'' as 436.

1999—Pub. L. 106–65, div. A, title V, §586(c)(2), Oct. 5, 1999, 113 Stat. 639, as amended by Pub. L. 106–398, §1 [[div. A], title X, §1087(c)(1)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292, added item 435 ''Per diem allowance for lengthy or numerous deployments''.

Pub. L. 106–65, div. A, title V, §578(k)(4), Oct. 5, 1999, 113 Stat. 631, as amended by Pub. L. 106–398, §1 [[div. A], title X, §1087(c)(1)(A)(ii)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292, added item 435 ''Funeral honors duty: allowance''.

1998—Pub. L. 105–261, div. A, title VI, §633(b)(2), Oct. 17, 1998, 112 Stat. 2044, substituted ''rest and recuperative leave from certain stations'' for ''leave from certain stations'' in item 411c.

1997—Pub. L. 105–85, div. A, title VI, §603(c)(4), Nov. 18, 1997, 111 Stat. 1782, substituted ''housing'' for ''quarters'' in item 403 and struck out item 403a ''Variable housing allowance''.

1994—Pub. L. 103–337, div. A, title VI, §602(a)(2), Oct. 5, 1994, 108 Stat. 2781, added item 403b.

1992—Pub. L. 102–484, div. A, title VI, §623(a)(2), Oct. 23, 1992, 106 Stat. 2423, added item 434.

1990—Pub. L. 101–510, div. A, title V, §504(a)(1), title XIV, §1484(f)(1), Nov. 5, 1990, 104 Stat. 1559, 1717, revised chapter heading so as to appear in all capital letters and renumbered Pub. L. 95–561, §1407(c)(1)(B). See 1978 Amendment note below.

1989—Pub. L. 101–189, div. A, title V, §502(b)(2), title VI, §624(a)(2), Nov. 29, 1989, 103 Stat. 1437, 1448, added items 406c and 433.

1987—Pub. L. 100–180, div. A, title VI, §§611(a)(2), 614(a)(2), (d)(3), 615(a)(2), title XIII, §1314(c)(2), Dec. 4, 1987, 101 Stat. 1093–1096, 1176, substituted ''leave between consecutive overseas tours'' for ''certain leave'' in item 411b, added items 411g and 411h, inserted ''and Vice Chairman'' in item 413, added item 419, and redesignated former items 419 and 420 as 420 and 421, respectively.

Pub. L. 100–26, §8(b)(1), Apr. 21, 1987, 101 Stat. 285, redesignated item 431 ''Travel and transportation: members escorting certain dependents'' as item 432.

1986—Pub. L. 99–661, div. A, title VI, §615(a)(2), Nov. 14, 1986, 100 Stat. 3880, added item 431 ''Travel and transportation: members escorting certain dependents''.

1985—Pub. L. 99–145, title VI, §§ 616(c)(2), 620(a)(2), title XIII, §§ 1302(b)(2), 1303(b)(7), Nov. 8, 1985, 99 Stat. 641, 643, 738, 740, substituted ''allowances:'' for ''allowances;'' in item 404 and ''departure'' for ''evacuation'' in item 405a, struck out ''away from home port'' after ''inactivating'' in item 406b, added item 411f, substituted ''allowances'' for ''allowance'' in item 425, and added item 431 ''Benefits for certain members assigned to the Defense Intelligence Agency''.

1984—Pub. L. 98–525, title VI, §§ 602(d)(2), 612(a)(2), Oct. 19, 1984, 98 Stat. 2536, 2539, struck out ''; variable housing allowance'' after ''Basic allowance for quarters'' in item 403, and added item 403a, and substituted ''personal emergencies for certain members and dependents'' for ''certain emergencies for members performing temporary duty'' in item 411d.

1983—Pub. L. 98–94, title IX, §§ 910(a)(2), 932(e)(2), Sept. 24, 1983, 97 Stat. 639, 650, struck out item 421 ''Contract surgeons'' and added item 430.

1981—Pub. L. 97–60, title I, §§ 122(a)(2), 126(b), Oct. 14, 1981, 95 Stat. 1003, 1005, added items 404a, 411c, 411d, and 411e.

Pub. L. 97–22, § 11(b)(3)(B), July 10, 1981, 95 Stat. 138, substituted ''uniformed services'' for ''Uniformed Services'' in item 406b.

1980—Pub. L. 96–343, § 4(a)(3), Sept. 8, 1980, 94 Stat. 1125, substituted ''for quarters; variable housing allowance'' for ''for quarters'' in item 403.

Pub. L. 96–342, title VIII, § 808(a)(2), Sept. 8, 1980, 94 Stat. 1097, substituted ''house trailers and mobile homes'' for ''trailers'' in item 409.

1978—Pub. L. 95–561, title XIV, § 1407(e)(1)(B), formerly § 1407(c)(1)(B), Nov. 1, 1978, 92 Stat. 2367, renumbered § 1407(d)(1)(B) by Pub. L. 101–510, div. A, title V, § 504(a)(1), Nov. 5, 1990, 104 Stat. 1559, renumbered § 1407(e)(1)(B) by Pub. L. 107–107, div. A, title III, § 353(1), Dec. 28, 2001, 115 Stat. 1063, added item 429.

1973—Pub. L. 93–213, § 1(2), Dec. 28, 1973, 87 Stat. 910, added item 411b.

Pub. L. 93–170, § 1(2), Nov. 29, 1973, 87 Stat. 689, substituted ''overhauling or inactivating'' for ''overhauling'' in item 406b.

1971—Pub. L. 92–129, title II, § 205(b), Sept. 28, 1971, 85 Stat. 359, added item 428.

1970—Pub. L. 91–210, § 1(2), Mar. 13, 1970, 84 Stat. 53, added item 406b.

1968—Pub. L. 90–377, § 9, July 5, 1968, 82 Stat. 288, struck out item 426 ''Prisoners in naval confinement facilities''.

1967—Pub. L. 90–207, § 9(2), Dec. 16, 1967, 81 Stat. 655, inserted item 411a.

1965—Pub. L. 89–26, § 1(2), May 22, 1965, 79 Stat. 117, inserted item 405a.

1964—Pub. L. 88–647, title II, § 202(6), Oct. 13, 1964, 78 Stat. 1071, substituted ''Cadets and midshipmen'' for ''Cadets, midshipmen, and naval officer candidates'' in item 422.

1963—Pub. L. 88–238, § 1(2), Dec. 23, 1963, 77 Stat. 476, inserted item 406a.

Pub. L. 88–132, § 11(2), Oct. 2, 1963, 77 Stat. 217, added item 427.

## § 401. Definitions

(a) DEPENDENT DEFINED.—In this chapter, the term ''dependent'', with respect to a member of a uniformed service, means the following persons:

(1) The spouse of the member.

(2) An unmarried child of the member who—

(A) is under 21 years of age;

(B) is incapable of self-support because of mental or physical incapacity and is in fact dependent on the member for more than one-half of the child's support; or

(C) is under 23 years of age, is enrolled in a full-time course of study in an institution of higher education approved by the Secretary concerned for purposes of this subparagraph, and is in fact dependent on the member for more than one-half of the child's support.

(3) A parent of the member if—

(A) the parent is in fact dependent on the member for more than one-half of the parent's support;

(B) the parent has been so dependent for a period prescribed by the Secretary concerned or became so dependent due to a change of circumstances arising after the member entered on active duty; and

(C) the dependency of the parent on the member is determined on the basis of an affidavit submitted by the parent and any other evidence required under regulations prescribed by the Secretary concerned.

(4) An unmarried person who—

(A) is placed in the legal custody of the member as a result of an order of a court of competent jurisdiction in the United States (or Puerto Rico or a possession of the United States) for a period of at least 12 consecutive months;

(B) either—

(i) has not attained the age of 21;

(ii) has not attained the age of 23 years and is enrolled in a full time course of study at an institution of higher learning approved by the Secretary concerned; or

(iii) is incapable of self support because of a mental or physical incapacity that occurred while the person was considered a dependent of the member or former member under this paragraph pursuant to clause (i) or (ii);

(C) is dependent on the member for over one-half of the person's support;

(D) resides with the member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the Secretary concerned may by regulation prescribe; and

(E) is not a dependent of a member under any other paragraph.

(b) OTHER DEFINITIONS.—For purposes of subsection (a):

(1) The term ''child'' includes—

(A) a stepchild of the member (except that such term does not include a stepchild after the divorce of the member from the stepchild's parent by blood);

(B) an adopted child of the member, including a child placed in the home of the member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member; and

(C) an illegitimate child of the member if the member's parentage of the child is established in accordance with criteria prescribed in regulations by the Secretary concerned.

(2) The term ''parent'' means—

(A) a natural parent of the member;

(B) a stepparent of the member;

(C) a parent of the member by adoption;

(D) a parent, stepparent, or adopted parent of the spouse of the member; and

(E) any other person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least five years before the member became 21 years of age.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 469; Pub. L. 93–64, title I, §§103, 104, July 9, 1973, 87 Stat. 148; Pub. L. 100–26, §8(e)(7), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102–190, div. A, title VI, §621, Dec. 5, 1991, 105 Stat. 1377; Pub. L. 103–160, div. A, title VI, §631(a), Nov. 30, 1993, 107 Stat. 1683; Pub. L. 103–337, div. A, title VII, §701(b), Oct. 5, 1994, 108 Stat. 2797.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 401 ..... | 37:231(g) (less last proviso of last sentence). | Oct. 12, 1949, ch. 681, §102(g) (less last proviso of last sentence), 63 Stat. 804; Sept. 8, 1950, ch. 922, §1, 64 Stat. 794; Mar. 23, 1953, ch. 8 (as applicable to §102(g)), 67 Stat. 6; June 30, 1955, ch. 250, §103 (as applicable to §102(g)), 69 Stat. 224; Mar. 23, 1959, Pub. L. 86–4, §3 (as applicable to §102(g)), 73 Stat. 13. |

The words ''lawful'', ''at all times and in all places'', ''except as hereinafter limited in this subsection'', and ''in addition to those persons otherwise defined as dependents in this subsection'' are omitted as surplusage. In clause (1), the word ''spouse'' is substituted for words ''wife'' and ''husband''. Clause (2) is substituted for the 16th through 24th words of the first sentence of section 231(g) of existing title 37 and the third sentence (less last proviso) of section 231(g) of existing title 37. Clause (3) is substituted for the second sentence of section 231(g) of existing title 37 and the last sentence (less provisos) of section 231(g) of existing title 37. The second sentence is substituted for the last proviso of the third sentence of section 231(g) of existing title 37. The last sentence is substituted for the first proviso of the last sentence of section 231(g) of existing title 37.

AMENDMENTS

1994—Subsec. (b)(1)(B). Pub. L. 103–337 substituted ''placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member'' for ''placement agency for the purpose of adoption''.

1993—Subsec. (a)(4). Pub. L. 103–160 added par. (4).

1991—Pub. L. 102–190 amended text generally. Prior to amendment, text read as follows: ''In this chapter, the term 'dependent', with respect to a member of a uniformed service, means—

''(1) his spouse;

''(2) his unmarried child (including any of the following categories of children if such child is in fact dependent on the member: a stepchild; an adopted child; or an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member) who either—

''(A) is under 21 years of age; or

''(B) is incapable of self-support because of a mental or physical incapacity, and in fact dependent on the member for over one-half of his support; and

''(3) his parent (including a stepparent or parent by adoption, and any person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least five years before the member became 21 years of age) who is in fact dependent on the member for over one-half of his support; however, the dependency of such a parent is determined on the basis of an affidavit submitted by the parent, and any other evidence required under regulations prescribed by the Secretary concerned, and he is not considered a dependent of the member claiming the dependence unless—

''(A) the member has provided over one-half of his support for the period prescribed by the Secretary concerned; or

''(B) due to changed circumstances arising after the member enters on active duty, he becomes in fact dependent on the member for over one-half of his support.

For the purposes of this section, the relationship between a stepparent and his stepchild is terminated by the stepparent's divorce from the parent by blood.''

1987—Pub. L. 100–26 inserted ''the term'' after ''In this chapter,''.

1973—Cl. (2). Pub. L. 93–64, §103(1), in revising cl. (1) of first sentence, substituted ''unmarried child'' for ''unmarried legitimate child'' and defined dependent to include an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member.

Cl. (3). Pub. L. 93–64, §104, in revising cl. (3) of first sentence, substituted ''five years before the member became 21 years'' for ''five years before he became 21 years'', struck out requirement of actual residence of parent in the member's household, and inserted provision respecting determination of dependency of parent, including items (A) and (B), formerly contained in former section 2201 of Appendix to Title 50, War and National Defense.

Closing text. Pub. L. 93–64, §103(2), struck out second sentence, following cl. (3) of first sentence, stating that a person is not a dependent of a female member unless he is in fact dependent on her for over one-half of his support.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 631(b) of Pub. L. 103–160 provided that: ''Section 401(a)(4) of title 37, United States Code, as added by subsection (a), shall apply with respect to determinations of dependency made on or after July 1, 1994.''

EFFECTIVE DATE OF 1973 AMENDMENT

Section 206 of Pub. L. 93–64 provided that: ''This Act [enacting section 1173 of Title 10, Armed Forces, amending this section and sections 302, 302a, 303, 308a, and 403 of this title, and repealing sections 2210 to 2212 of Title 50, Appendix, War and National Defense] shall become effective July 1, 1973.''

## §402. Basic allowance for subsistence

(a) ENTITLEMENT TO ALLOWANCE.—(1) Except as provided in paragraph (2) or otherwise provided by law, each member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for subsistence as set forth in this section.

(2) An enlisted member is not entitled to the basic allowance for subsistence during basic training.

(b) RATES OF ALLOWANCE BASED ON FOOD COSTS.—(1) The monthly rate of basic allowance for subsistence to be in effect for an enlisted member for a year (beginning on January 1 of that year) shall be equal to the sum of—

(A) the monthly rate of basic allowance for subsistence that was in effect for an enlisted member for the preceding year; plus

(B) the product of the monthly rate under subparagraph (A) and the percentage increase in the monthly cost of a liberal food plan for a male in the United States who is between 20 and 50 years of age over the preceding fiscal year, as determined by the Secretary of Agriculture each October 1.

(2) The monthly rate of basic allowance for subsistence to be in effect for an officer for a year (beginning on January 1 of that year) shall be the amount equal to the monthly rate of basic allowance for subsistence in effect for officers for the preceding year, increased by the same percentage by which the rate of basic allowance for subsistence for enlisted members for the preceding year is increased effective on such January 1.

(3) For purposes of implementing paragraph (1), the monthly rate of basic allowance for subsistence that was in effect for an enlisted member for calendar year 2001 is deemed to be $233.

(c) ADVANCE PAYMENT.—The allowance to an enlisted member may be paid in advance for a period of not more than three months.

(d) SPECIAL RATE FOR ENLISTED MEMBERS OCCUPYING SINGLE QUARTERS WITHOUT ADEQUATE AVAILABILITY OF MEALS.—The Secretary of Defense, and the Secretary of the department in which the Coast Guard is operating, may pay an enlisted member the basic allowance for subsistence under this section at a monthly rate that is twice the amount in effect under subsection (b)(1) while—

(1) the member is assigned to single Government quarters which have no adequate food storage or preparation facility in the quarters; and

(2) there is no Government messing facility serving those quarters that is capable of making meals available to the occupants of the quarters.

(e) SPECIAL RULE FOR CERTAIN ENLISTED RESERVE MEMBERS.—Unless entitled to basic pay under section 204 of this title, an enlisted member of a reserve component may receive, at the discretion of the Secretary concerned, rations in kind, or a part thereof, when the member's instruction or duty periods, as described in section 206(a) of this title, total at least 8 hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.

(f) SPECIAL RULE FOR HIGH-COST DUTY LOCATIONS AND OTHER UNIQUE AND UNUSUAL CIRCUMSTANCES.—The Secretary of Defense may authorize a member of the armed forces who is not entitled to the meals portion of the per diem in connection with an assignment in a high-cost duty location or under other unique and unusual circumstances, as determined by the Secretary, to receive any or all of the following:

(1) Meals at no cost to the member, regardless of the entitlement of the member to a basic allowance for subsistence under subsection (a).

(2) A basic allowance for subsistence at the standard rate, regardless of the entitlement of the member for all meals or select meals during the duty day.

(3) A supplemental subsistence allowance at a rate higher than the basic allowance for subsistence rates in effect under this section, regardless of the entitlement of the member for all meals or select meals during the duty day.

(g) POLICIES ON USE OF DINING AND MESSING FACILITIES.—The Secretary of Defense, in consultation with the Secretaries concerned, shall prescribe policies regarding use of dining and field messing facilities of the uniformed services.

(h) NO PAYMENT FOR MEALS RECEIVED AT MILITARY TREATMENT FACILITIES.—(1) A member of the armed forces who is undergoing medical recuperation or therapy, or is otherwise in the status of continuous care, including outpatient care, at a military treatment facility for an injury, illness, or disease described in paragraph (2) shall not be required to pay any charge for meals provided to the member by the military treatment facility.

(2) Paragraph (1) applies with respect to an injury, illness, or disease incurred or aggravated by a member while the member was serving on active duty—

(A) in support of Operation Iraqi Freedom or Operation Enduring Freedom; or

(B) in any other operation designated by the Secretary of Defense as a combat operation or in an area designated by the Secretary as a combat zone.

(i) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations for the administration of this section. Before prescribing the regulations, the Secretary shall consult with each Secretary concerned.

(2) The regulations shall include the specific rates of basic allowance for subsistence required by subsection (b).

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 89–444, § 2(2), June 9, 1966, 80 Stat. 198; Pub. L. 93–419, § 3(1)–(5), Sept. 19, 1974, 88 Stat. 1152; Pub. L. 96–513, title IV, § 411, Dec. 12, 1980, 94 Stat. 2905; Pub. L. 98–94, title IX, § 908(a), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98–525, title VI, § 605, Oct. 19, 1984, 98 Stat. 2537; Pub. L. 98–557, § 17(d), Oct. 30, 1984, 98 Stat. 2868; Pub. L. 99–145, title XIII, § 1303(b)(5), Nov. 8, 1985, 99 Stat. 740; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title VI, § 602(a)–(c)(1), Feb. 10, 1996, 110 Stat. 356, 357; Pub. L. 105–85, div. A, title VI, § 602(a), Nov. 18, 1997, 111 Stat. 1771; Pub. L. 105–261, div. A, title VI, § 604(a), Oct. 17, 1998, 112 Stat. 2037; Pub. L. 106–398, § 1 [[div. A], title VI, § 603(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–144, 1654A–145; Pub. L. 107–107, div. A, title VI, § 604(a), Dec. 28, 2001, 115 Stat. 1133; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, § 603, Dec. 2, 2002, 116 Stat. 2566; Pub. L. 108–136, div. A, title VI, § 604, title X, § 1045(b)(2), Nov. 24, 2003, 117 Stat. 1499, 1612; Pub. L. 109–163, div. A, title VI, § 607(a), Jan. 6, 2006, 119 Stat. 3288; Pub. L. 109–364, div. A, title VI, § 603(a), Oct. 17, 2006, 120 Stat. 2245; Pub. L. 110–181, div. A, title VI, § 614(h), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title VI, § 602, Oct. 14, 2008, 122 Stat. 4483.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 402(a) ..... | 37:251(a) (1st sentence). | Oct. 12, 1949, ch. 681, §301, 63 Stat. 812; May 19, 1952, ch. 310, §1(d), 66 Stat. 80; Aug. 10, 1956, ch. 1041, §20(b), 70A Stat. 627; Sept. 2, 1958, Pub. L. 85–861, §10, 72 Stat. 1556. |
| 402(b) ..... | 37:251(a) (2d and last sentences). | |
| | 37:251(b). | |
| | 37:251(c). | |
| | 37:251a. | Aug. 1, 1953, ch. 305, §617, 67 Stat. 352. |
| | 37:301(a) (45 words before proviso). | Oct. 12, 1949, ch. 681, §501(a) (45 words before proviso), (e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay), 63 Stat. 825, 827; July 9, 1952, ch. 608, §244, 66 Stat. 494; June 30, 1960, Pub. L. 86–559, §8, 74 Stat. 282. |
| | 37:301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay). | |
| 402(c) ..... | 37:251(a) (less 1st, 2d, and last sentences). | |
| 402(d) ..... | 37:251(e). | |
| 402(e) ..... | 37:251(f). | |
| 402(f) ..... | 37:251(d). | |

In subsection (a), the words ''in the amount set forth in subsection (d)'' are substituted for the words ''in such amounts . . . as are provided in this section''.

In subsection (b), the words ''on a daily basis'' are substituted for the last sentence of section 251(a) of existing title 37. The words ''United States'' are substituted for the word ''Government'', in the 2d sentence of section 251(a) of existing title 37, section 251(b) of existing title 37, and section 251(e) of existing title 37. The word ''confined'' is substituted for the word ''sick'' for clarity. The last 16 words of the third sentence are substituted for section 251(b) (proviso) of existing title 37. The fourth sentence is substituted for section 251(a) of existing title 37. The last sentence is substituted for section 301(a) (45 words before proviso) of existing title 37 and section 301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay). In that sentence, the words ''of a reserve component of a uniformed service, or of the National Guard'' are substituted for the enumeration of the organizations concerned.

In subsection (c), the words ''who are entitled to basic pay'' are inserted to reflect the 1st sentence of section 251(a) of existing title 37.

In subsection (d), the reference in section 251(a) of existing title 37 to the allowance of $1.05 per day for enlisted members granted permission to mess separately is omitted as superseded by section 251a.

In subsection (e), the words ''Effective April 15, 1955,'' are omitted as executed. The words ''United States'' are substituted for the word ''Government''. The words ''messing facilities'' are substituted for the word ''messes'' to conform to subsections (b) and (d).

AMENDMENTS

2008—Subsec. (h)(1). Pub. L. 110–417, §602(1), struck out before period at end ''during any month covered by paragraph (3) in which the member is entitled to a basic allowance for subsistence under this section''.

Subsec. (h)(3). Pub. L. 110–417, §602(2), struck out par. (3) which read as follows: ''This subsection shall apply to months beginning during the period beginning on October 1, 2005, and ending on December 31, 2008.''

Pub. L. 110–181 substituted ''December 31, 2008'' for ''December 31, 2007''.

2006—Subsec. (h). Pub. L. 109–163, §607(a)(2), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (h)(3). Pub. L. 109–364 substituted ''December 31, 2007'' for ''December 31, 2006''.

Subsec. (i). Pub. L. 109–163, §607(a)(1), redesignated subsec. (h) as (i).

2003—Subsec. (b)(1). Pub. L. 108–136, §1045(b)(2)(A)(i)–(iii), redesignated par. (2) as (1), substituted ''The'' for ''On and after January 1, 2002, the'', and struck out former par. (1) which read as follows: ''Through December 31, 2001, the monthly rate of basic allowance for subsistence to be in effect for an enlisted member for a year (beginning on January 1 of that year) shall be the amount that is halfway between the following amounts, which are determined by the Secretary of Agriculture as of October 1 of the preceding year:

''(A) The amount equal to the monthly cost of a moderate-cost food plan for a male in the United States who is between 20 and 50 years of age.''

''(B) The amount equal to the monthly cost of a liberal food plan for a male in the United States who is between 20 and 50 years of age.''

Subsec. (b)(2). Pub. L. 108–136, §1045(b)(2)(A)(ii), redesignated par. (3) as (2). Former par. (2) redesignated (1).

Subsec. (b)(3), (4). Pub. L. 108–136, §1045(b)(2)(A)(ii), (iv), redesignated par. (4) as (3) and substituted ''paragraph (1)'' for ''paragraph (2)''. Former par. (3) redesignated (2).

Subsec. (d). Pub. L. 108–136, §1045(b)(2)(B), substituted ''subsection (b)(1)'' for ''subsection (b)(2)''.

Subsecs. (f) to (h). Pub. L. 108–136, §604, added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

2002—Subsec. (d). Pub. L. 107–314 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows:

''(1) In areas prescribed by the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an enlisted member described in paragraph (2) is entitled to not more than the pro rata allowance in effect under paragraph (1) or (2) of subsection (b) for each meal the member buys from a source other than a messing facility of the United States.

''(2) An enlisted member referred to in paragraph (1) is a member who is granted permission to mess separately and whose duties require the member to buy at least one meal from a source other than a messing facility of the United States.''

Pub. L. 107–296, which directed amendment of subsec. (d) by substituting ''of Homeland Security'' for ''of Transportation'', could not be executed because the words ''of Transportation'' did not appear subsequent to amendment by Pub. L. 107–314, see above and Effective Date of 2002 Amendment note below.

2001—Subsec. (b)(4). Pub. L. 107–107 added par. (4).

2000—Subsec. (b)(1). Pub. L. 106–398, §1 [[div. A], title VI, §603(a)(1)], substituted ''Through December 31, 2001, the monthly rate'' for ''The monthly rate'' in introductory provisions.

Subsec. (b)(2), (3). Pub. L. 106–398, §1 [[div. A], title VI, §603(a)(2), (3)], added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(1). Pub. L. 106–398, §1 [[div. A], title VI, §603(b)], substituted ''in effect under paragraph (1) or (2) of subsection (b)'' for ''established under subsection (b)(1)''.

1998—Subsecs. (e) to (g). Pub. L. 105–261 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

1997—Pub. L. 105–85 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e) relating to basic allowance for subsistence for members of the uniformed services.

1996—Subsec. (b). Pub. L. 104–106, §602(a), (b), designated first sentence as par. (1), redesignated former pars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively, of par. (1), designated second to fourth sentences as par. (2), designated fifth and sixth sentences as par. (3), and added par. (4).

Subsec. (e)(1). Pub. L. 104–106, §602(c)(1)(A), substituted ''subsection (b)(2)'' for ''the third sentence of subsection (b)''.

Subsec. (e)(2). Pub. L. 104–106, §602(c)(1)(B), substituted ''subsection (b)(2)'' for ''subsection (b)''.

1991—Subsec. (e). Pub. L. 102–25 struck out ''of this section'' after ''subsection (b)'' in pars. (1) and (2).

1985—Subsec. (b). Pub. L. 99–145 inserted ''or as otherwise prescribed by law'' after ''title'' at end of fourth sentence.

1984—Subsec. (b). Pub. L. 98–525 inserted ''The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.''

Subsec. (d). Pub. L. 98–557 inserted provisions relating to Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

1983—Subsec. (e). Pub. L. 98–94 designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (b). Pub. L. 96–513, § 411(a), inserted provisions authorizing an allowance while performing travel under orders, and struck out provisions prohibiting an allowance while being subsisted at the expense of United States.

Subsec. (e). Pub. L. 96–513, § 411(b), inserted reference to definitions of ''field duty'' and ''sea duty''.

1974—Subsec. (a). Pub. L. 93–419, § 3(1), struck out ''this section or by another'' after ''otherwise provided by'' and substituted ''as set forth in this section'' for ''in the amount set forth in subsection (d) of this section''.

Subsec. (b). Pub. L. 93–419, § 3(2), substituted provisions for allowance for enlisted members authorized to receive basic allowance for subsistence under this subsection by reference to section 1009 of this title for provisions for allowance for enlisted members on leave or were authorized to mess separately at an amount equal to the cost of ration to be determined by the Secretary of Defense.

Subsec. (c). Pub. L. 93–419, § 3(3), inserted reference to section 1009 of this title in provisions relating to the amount of basic allowance for subsistence.

Subsecs. (d) to (f). Pub. L. 93–419, § 3(4), (5), struck out subsec. (d) which related to basic allowance for subsistence for members of the uniformed services, and redesignated subsecs. (e) and (f) as (d) and (e), respectively.

1966—Subsec. (c). Pub. L. 89–444 extended to aviation cadets of the Coast Guard the entitlement to the same basic allowance for subsistence as is provided for an officer of the Coast Guard.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 602(g) of Pub. L. 105–85 provided that: ''This section [amending this section, section 404 of this title, and section 6081 of Title 10, Armed Forces, and enacting provisions set out as a note below] and the amendments made by this section shall take effect on January 1, 1998.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 605 of Pub. L. 98–525 provided that the amendment made by that section is effective Oct. 1, 1984.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by section 411 of Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–419 effective Sept. 19, 1974, see section 9 of Pub. L. 93–419, set out as an Effective Date note under section 1009 of this title.

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), 551(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.

RATE FOR ENLISTED MEMBERS WHEN MESSING FACILITIES NOT AVAILABLE

Pub. L. 107–107, div. A, title VI, § 604(b), Dec. 28, 2001, 115 Stat. 1133, provided that:

''(1) Notwithstanding section 402 of title 37, United States Code, the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, may prescribe a rate of basic allowance for subsistence to apply to enlisted members of the uniformed services when messing facilities of the United States are not available. The rate may be higher than the rate of basic allowance for subsistence that would otherwise be applicable to the members under that section, but may not be higher than the highest rate that was in effect for enlisted members of the uniformed services under those circumstances before the date of the enactment of this Act [Dec. 28, 2001].

''(2) Paragraph (1) shall cease to be effective on the first day of the first month for which the basic allowance for subsistence calculated for enlisted members of the uniformed services under section 402 of title 37, United States Code, exceeds the rate of the basic allowance for subsistence prescribed under paragraph (1).''

TRANSITIONAL AUTHORITY TO PROVIDE BASIC ALLOWANCE FOR SUBSISTENCE

Pub. L. 107–107, div. A, title VI, § 604(c), Dec. 28, 2001, 115 Stat. 1134, provided that: ''Notwithstanding the repeal of subsections (c) through (f) of section 602 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 37 U.S.C. 402 note) by section 603(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–145) [see below], the basic allowance for subsistence shall be paid in accordance with such subsections for October, November, and December of 2001.''

Pub. L. 105–85, div. A, title VI, § 602(c)–(f), Nov. 18, 1997, 111 Stat. 1772, as amended by Pub. L. 105–261, div. A, title VI, § 604(b), Oct. 17, 1998, 112 Stat. 2038; Pub. L. 106–398, § 1 [[div. A, title X, § 1087(e)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–293, which provided that a basic allowance for subsistence was to be paid to members of the uniformed services according to the conditions and at the rates provided in this note and not under the authority of this section during the period beginning on Jan. 1, 1998, and ending on the first day of the month immediately following the first month for which the monthly equivalent of the rate of basic allowance for subsistence payable to enlisted members of the uniformed services determined under this note was equal to or exceeded by the amount that would otherwise have been the monthly rate of basic allowance for subsistence under subsec. (b)(1) of this section, was repealed by Pub. L. 106–398, § 1 [[div. A, title VI, § 603(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–145, effective Oct. 1, 2001.

INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

Pub. L. 96–343, § 7, Sept. 8, 1980, 94 Stat. 1128, provided that: ''Effective September 1, 1980, the rates of basic al-

lowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act [Sept. 8, 1980] (as prescribed by the President under section 1009 of such title), are increased by 10 percent.''

REGULATIONS RELATING TO SUBSISTENCE ALLOWANCE

Regulations relating to basic allowance for subsistence, see Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, formerly set out as a note under section 301 of this title.

EXECUTIVE ORDER NO. 10119

Ex. Ord. No. 10119, Mar. 30, 1950, 15 F.R. 1767, as amended by 1953 Reorg. Plan No. 1, §§5, 8, Apr. 11, 1953, 18 F.R. 2053; Ex. Ord. No. 10605, Apr. 22, 1955, 20 F.R. 2747, which related to regulations governing basic allowance for subsistence, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

## § 402a. Supplemental subsistence allowance for low-income members with dependents

(a) SUPPLEMENTAL ALLOWANCE REQUIRED.—(1) The Secretary concerned shall increase the basic allowance for subsistence to which a member of the armed forces described in subsection (b) is otherwise entitled under section 402 of this title by an amount (in this section referred to as the ''supplemental subsistence allowance'') designed to remove the member's household from eligibility for benefits under the supplemental nutrition assistance program.

(2) The supplemental subsistence allowance may not exceed $1,100 per month. In establishing the amount of the supplemental subsistence allowance to be paid an eligible member under this paragraph, the Secretary shall take into consideration the amount of the basic allowance for housing that the member receives under section 403 of this title or would otherwise receive under such section, in the case of a member who is not entitled to that allowance as a result of assignment to quarters of the United States or a housing facility under the jurisdiction of a uniformed service.

(3) In the case of a member described in subsection (b) who establishes to the satisfaction of the Secretary concerned that the allotment of the member's household under the supplemental nutrition assistance program, calculated in the absence of the supplemental subsistence allowance, would exceed the amount established by the Secretary concerned under paragraph (2), the amount of the supplemental subsistence allowance for the member shall be equal to the lesser of the following:

(A) The value of that allotment.

(B) $1,100.

(b) MEMBERS ENTITLED TO ALLOWANCE.—(1) Subject to subsection (d), a member of the armed forces with dependents is entitled to receive the supplemental subsistence allowance if the Secretary concerned determines that the member's income, together with the income of the rest of the member's household (if any), is within the highest income standard of eligibility, as then in effect under section 5(c) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(c)) and without regard to paragraph (1) of such section, for participation in the supplemental nutrition assistance program.

(2) In determining whether a member meets the eligibility criteria under paragraph (1), the Secretary concerned shall take into consideration the amount of the basic allowance for housing that the member receives under section 403 of this title or would otherwise receive under such section, in the case of a member who is not entitled to that allowance as a result of assignment to quarters of the United States or a housing facility under the jurisdiction of a uniformed service.

(3) In determining whether a member meets the eligibility criteria under paragraph (1), the Secretary concerned shall not take into consideration—

(A) the amount of the supplemental subsistence allowance that is payable under this section;

(B) the amount of any special pay that is payable to the member under section 310 of this title, relating to duty subject to hostile fire or imminent danger; or

(C) the amount of any family separation allowance that is payable to the member under section 427 of this title.

(c) APPLICATION FOR ALLOWANCE.—To request the supplemental subsistence allowance, a member shall submit an application to the Secretary concerned in such form and containing such information as the Secretary concerned may prescribe. A member applying for the supplemental subsistence allowance shall furnish such evidence regarding the member's satisfaction of the eligibility criteria under subsection (b) as the Secretary concerned may require.

(d) EFFECTIVE PERIOD.—The entitlement of a member to receive the supplemental subsistence allowance terminates upon the occurrence of any of the following events, even though the member continues to meet the eligibility criteria described in subsection (b):

(1) Payment of the supplemental subsistence allowance for 12 consecutive months.

(2) Promotion of the member to a higher grade.

(3) Transfer of the member in a permanent change of station.

(e) REAPPLICATION.—Upon the termination of the effective period of the supplemental subsistence allowance for a member, or in anticipation of the imminent termination of the allowance, a member may reapply for the allowance under subsection (c), and the Secretary concerned shall approve the application and resume payment of the allowance to the member, if the member continues to meet, or once again meets, the eligibility criteria described in subsection (b).

(f) REPORTING REQUIREMENT.—Not later than March 1 of each year after 2001, the Secretary of Defense shall submit to Congress a report specifying the number of members of the armed forces who received, at any time during the preceding year, the supplemental subsistence allowance. In preparing the report, the Secretary of Defense shall consult with the Secretary of Homeland Security, with respect to the Coast Guard.

(g) ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—(1) A child or spouse of a member of the

armed forces receiving the supplemental subsistence allowance under this section who, except on account of the receipt of such allowance, would be eligible to receive a benefit described in paragraph (2) shall be considered to be eligible for that benefit notwithstanding the receipt of such allowance.

(2) The benefits referred to in paragraph (1) are as follows:

(A) Assistance provided under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) Assistance provided under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(C) A service provided under the Head Start Act (42 U.S.C. 9831 et seq.).

(D) Assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

(3) A household that includes a member of the armed forces receiving the supplemental subsistence allowance under this section and that, except on account of the receipt of such allowance, would be eligible to receive a benefit under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be eligible for that benefit notwithstanding the receipt of such allowance.

(h) DEFINITIONS.—In this section:

(1) The term ''Secretary concerned'' means—

(A) the Secretary of Defense; and

(B) the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy.

(2) The terms ''allotment'' and ''household'' have the meanings given those terms in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012).

(3) The term ''supplemental nutrition assistance program'' means the program established pursuant to section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013).

(Added Pub. L. 106–398, §1 [[div. A], title VI, §604(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–145; amended Pub. L. 107–107, div. A, title VI, §604(d), Dec. 28, 2001, 115 Stat. 1134; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–375, div. A, title VI, §602(a), (b), Oct. 28, 2004, 118 Stat. 1943; Pub. L. 109–163, div. A, title VI, §608, Jan. 6, 2006, 119 Stat. 3289; Pub. L. 109–364, div. A, title X, §1071(c)(6), (e)(4), Oct. 17, 2006, 120 Stat. 2401; Pub. L. 110–234, title IV, §4002(b)(1)(A), (B), (2)(T), May 22, 2008, 122 Stat. 1095–1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(A), (B), (2)(T), June 18, 2008, 122 Stat. 1664, 1857, 1858; Pub. L. 111–84, div. A, title VI, §602(a), Oct. 28, 2009, 123 Stat. 2347.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (g)(2)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (g)(2)(B), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Head Start Act, referred to in subsec. (g)(2)(C), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (g)(2)(D), is subchapter C (§658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L. 101–508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388–236, as amended, which is classified generally to subchapter II–B (§9858 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Low-Income Home Energy Assistance Act of 1981, referred to in subsec. (g)(3), is title XXVI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 893, as amended, which is classified principally to subchapter II (§8621 et seq.) of chapter 94 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 8621 of Title 42 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2009—Subsec. (a)(2), (3)(B). Pub. L. 111–84 substituted ''$1,100'' for ''$500''.

2008—Subsec. (a)(1), (3). Pub. L. 110–246, §4002(b)(1)(A), (2)(T), substituted ''supplemental nutrition assistance program'' for ''food stamp program''.

Subsec. (b)(1). Pub. L. 110–246, §4002(b)(1)(A), (B), (2)(T), substituted ''Food and Nutrition Act of 2008'' for ''Food Stamp Act of 1977'' and ''supplemental nutrition assistance program'' for ''food stamp program''.

Subsec. (h)(2). Pub. L. 110–246, §4002(b)(1)(B), (2)(T), substituted ''Food and Nutrition Act of 2008'' for ''Food Stamp Act of 1977''.

Subsec. (h)(3). Pub. L. 110–246, §4002(b)(1)(A), (B), (2)(T), substituted ''supplemental nutrition assistance program'' for ''food stamp program'' and ''Food and Nutrition Act of 2008'' for ''Food Stamp Act of 1977''.

2006—Subsec. (b)(3)(B). Pub. L. 109–364, §1071(c)(6), substituted ''title'' for ''section''.

Subsec. (f). Pub. L. 109–163, §608(b), as amended by Pub. L. 109–364, §1071(e)(4), substituted ''Secretary of Homeland Security, with respect to the Coast Guard'' for ''Secretary of Transportation'' and struck out at end ''No report is required under this subsection after March 1, 2006.''

Subsec. (i). Pub. L. 109–163, §608(a), struck out heading and text of subsec. (i). Text read as follows: ''No supplemental subsistence allowance may be provided under this section after September 30, 2006.''

2004—Subsec. (b)(2). Pub. L. 108–375, §602(a)(1), substituted ''concerned'' for dash after ''Secretary'' and struck out ''(A) shall not take into consideration the amount of the supplemental subsistence allowance payable under this section; but'' and subpar. (B) designation before ''shall take''.

Subsec. (b)(3). Pub. L. 108–375, §602(a)(2), added par. (3).

Subsecs. (g) to (i). Pub. L. 108–375, §602(b), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

2002—Subsec. (g)(1)(B). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

2001—Subsec. (b)(1). Pub. L. 107–107 inserted ''with dependents'' after ''a member of the armed forces''.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title VI, §602(b), Oct. 28, 2009, 123 Stat. 2347, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2009, and shall apply with respect to monthly supplemental subsistence allowances for low-income members with dependents payable on or after that date.''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (B), (2)(T) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, §1071(e), Oct. 17, 2006, 120 Stat. 2401, provided that the amendment made by section 1071(e)(4) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title VI, §602(c), Oct. 28, 2004, 118 Stat. 1944, provided that: ''The amendments made by this section [amending this section] shall apply in determining, on or after the date of the enactment of this Act [Oct. 28, 2004], the eligibility of a person for a supplemental subsistence allowance under section 402a of title 37, United States Code, or for Federal assistance under a law specified in subsection (g) of such section, as so amended.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE

Pub. L. 106–398, §1 [[div. A], title VI, §604(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–147, provided that: ''Section 402a of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month that begins not less than 180 days after the date of the enactment of this Act [Oct. 30, 2000].''

## §403. Basic allowance for housing

(a) GENERAL ENTITLEMENT.—(1) Except as otherwise provided by law, a member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for housing at the monthly rates prescribed under this section or another provision of law with regard to the applicable component of the basic allowance for housing. The amount of the basic allowance for housing for a member will vary according to the pay grade in which the member is assigned or distributed for basic pay purposes, the dependency status of the member, and the geographic location of the member. The basic allowance for housing may be paid in advance.

(2) A member of a uniformed service with dependents is not entitled to a basic allowance for housing as a member with dependents unless the member makes a certification to the Secretary concerned indicating the status of each dependent of the member. The certification shall be made in accordance with regulations prescribed by the Secretary of Defense.

(b) BASIC ALLOWANCE FOR HOUSING INSIDE THE UNITED STATES.—(1) The Secretary of Defense shall prescribe the rates of the basic allowance for housing that are applicable for the various military housing areas in the United States. The rates for an area shall be based on the costs of adequate housing determined for the area under paragraph (2).

(2) The Secretary of Defense shall determine the costs of adequate housing in a military housing area in the United States for all members of the uniformed services entitled to a basic allowance for housing in that area. The Secretary shall base the determination upon the costs of adequate housing for civilians with comparable income levels in the same area. After June 30, 2001, the Secretary may not differentiate between members with dependents in pay grades E–1 through E–4 in determining what constitutes adequate housing for members.

(3) The total amount that may be paid for a fiscal year for the basic allowance for housing under this subsection may not be less than the product of—

(A) the total amount authorized to be paid for such allowance for the preceding fiscal year; and

(B) a fraction—

(i) the numerator of which is the index of the national average monthly cost of housing for June of the preceding fiscal year; and

(ii) the denominator of which is the index of the national average monthly cost of housing for June of the second preceding fiscal year.

(4) An adjustment in the rates of the basic allowance for housing under this subsection as a result of the Secretary's redetermination of housing costs in an area shall take effect on the same date as the effective date of the next increase in basic pay under section 1009 of this title or other provision of law.

(5) On and after July 1, 2001, the Secretary of Defense shall establish a single monthly rate for members of the uniformed services with dependents in pay grades E–1 through E–4 in the same military housing area. The rate shall be consistent with the rates paid to members in pay grades other than pay grades E–1 through E–4 and shall be based on the following:

(A) The average cost of a two-bedroom apartment in that military housing area.

(B) One-half of the difference between the average cost of a two-bedroom townhouse in that area and the amount determined in subparagraph (A).

(6) So long as a member of a uniformed service retains uninterrupted eligibility to receive a basic allowance for housing within an area of the United States, the monthly amount of the allowance for the member may not be reduced as a result of changes in housing costs in the area or the promotion of the member.

(7)(A) Under the authority of this paragraph, the Secretary of Defense may prescribe a tem-

porary increase in the rates of basic allowance for housing otherwise prescribed for a military housing area or a portion of a military housing area if the military housing area or portion thereof—

(i) is located in an area covered by a declaration by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) that a major disaster exists; or

(ii) contains one or more military installations that are experiencing a sudden increase in the number of members of the armed forces assigned to the installation.

(B) The Secretary of Defense shall base the amount of the increase to be made in the rates of basic allowance for housing for an area on a determination by the Secretary of the amount by which the costs of adequate housing for civilians have increased in the area by reason of the disaster or the influx of military personnel, except that the increase may not exceed the amount equal to 20 percent of the rate of basic allowance for housing otherwise prescribed for the area.

(C) A member may be paid a basic allowance for housing at a rate increased under this paragraph only if the member certifies to the Secretary concerned that the member has incurred increased housing costs in the area by reason of the disaster or the influx of military personnel.

(D) Subject to subparagraph (E), an increase in the rates of basic allowance for housing in an area under this paragraph shall remain in effect until the effective date of the first adjustment in rates of basic allowance for housing made for the area pursuant to a redetermination of housing costs in the area under this subsection that occurs after the date of the increase under this paragraph.

(E) An increase in the rates of basic allowance for housing for an area may not be prescribed under this paragraph or continue after December 31, 2009.

(c) BASIC ALLOWANCE FOR HOUSING OUTSIDE THE UNITED STATES.—(1) The Secretary of Defense may prescribe an overseas basic allowance for housing for a member of a uniformed service who is on duty outside of the United States. The Secretary shall establish the basic allowance for housing under this subsection on the basis of housing costs in the overseas area in which the member is assigned.

(2) So long as a member of a uniformed service retains uninterrupted eligibility to receive a basic allowance for housing in an overseas area and the actual monthly cost of housing for the member is not reduced, the monthly amount of the allowance in an area outside the United States may not be reduced as a result of changes in housing costs in the area or the promotion of the member. The monthly amount of the allowance may be adjusted to reflect changes in currency rates.

(3)(A) In the case of a member of the uniformed services authorized to receive an allowance under paragraph (1), the Secretary concerned may make a lump-sum payment to the member for required deposits and advance rent, and for expenses relating thereto, that are—

(i) incurred by the member in occupying private housing outside of the United States; and

(ii) authorized or approved under regulations prescribed by the Secretary concerned.

(B) Expenses for which a member may be reimbursed under this paragraph may include losses relating to housing that are sustained by the member as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.

(C) The Secretary concerned shall recoup the full amount of any deposit or advance rent payments made by the Secretary under subparagraph (A), including any gain resulting from currency fluctuations between the time of payment and the time of recoupment.

(d) BASIC ALLOWANCE FOR HOUSING WHEN DEPENDENTS DO NOT ACCOMPANY MEMBER.—(1) A member of a uniformed service with dependents who is on permanent duty at a location described in paragraph (2) may be paid a family separation basic allowance for housing under this subsection at a monthly rate equal to the rate of the basic allowance for housing established under subsection (b) or the overseas basic allowance for housing established under subsection (c), whichever applies to that location, for members in the same grade at that location without dependents.

(2) A permanent duty location referred to in paragraph (1) is a location—

(A) to which the movement of the member's dependents is not authorized at the expense of the United States under section 406 of this title, and the member's dependents do not reside at or near the location; and

(B) at which quarters of the United States are not available for assignment to the member.

(3) If a member with dependents is assigned to duty in an area that is different from the area in which the member's dependents reside, the member is entitled to a basic allowance for housing as provided in subsection (b) or (c), whichever applies to the member, subject to the following:

(A) If the member's assignment to duty in that area, or the circumstances of that assignment, require the member's dependents to reside in a different area, as determined by the Secretary concerned, the amount of the basic allowance for housing for the member shall be based on the area in which the dependents reside or the member's last duty station, whichever the Secretary concerned determines to be most equitable.

(B) If the member's assignment to duty in that area is under the conditions of a low-cost or no-cost permanent change of station or permanent change of assignment, the amount of the basic allowance for housing for the member shall be based on the member's last duty station if the Secretary concerned determines that it would be inequitable to base the allowance on the cost of housing in the area to which the member is reassigned.

(C) If the member is reassigned for a permanent change of station or permanent change of

assignment from a duty station in the United States to another duty station in the United States for a period of not more than one year for the purpose of participating in professional military education or training classes, the amount of the basic allowance for housing for the member may be based on whichever of the following areas the Secretary concerned determines will provide the more equitable basis for the allowance:

(i) The area of the duty station to which the member is reassigned.

(ii) The area in which the dependents reside, but only if the dependents reside in that area when the member departs for the duty station to which the member is reassigned and only for the period during which the dependents reside in that area.

(iii) The area of the former duty station of the member, if different than the area in which the dependents reside.

(4) A family separation basic allowance for housing paid to a member under this subsection is in addition to any other allowance or per diem that the member receives under this title. A member may receive a basic allowance for housing under both paragraphs (1) and (3).

(e) EFFECT OF ASSIGNMENT TO QUARTERS.—(1) Except as otherwise provided by law, a member of a uniformed service who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service appropriate to the grade, rank, or rating of the member and adequate for the member and dependents of the member, if with dependents, is not entitled to a basic allowance for housing.

(2) A member without dependents who is in a pay grade above pay grade E–6 and who is assigned to quarters in the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to the grade or rank of the member and adequate for the member, may elect not to occupy those quarters and instead to receive the basic allowance for housing prescribed for the member's pay grade by this section.

(3) A member without dependents who is in pay grade E–6 and who is assigned to quarters of the United States that do not meet the minimum adequacy standards established by the Secretary of Defense for members in such pay grade, or to a housing facility under the jurisdiction of a uniformed service that does not meet such standards, may elect not to occupy such quarters or facility and instead to receive the basic allowance for housing prescribed for the member's pay grade under this section.

(4) The Secretary concerned may deny the right to make an election under paragraph (2) or (3) if the Secretary determines that the exercise of such an election would adversely affect a training mission, military discipline, or military readiness.

(5) A member with dependents who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service may be paid the basic allowance for housing if, because of orders of competent authority, the dependents are prevented from occupying those quarters.

(f) INELIGIBILITY DURING INITIAL FIELD DUTY OR SEA DUTY.—(1) A member of a uniformed service without dependents who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a basic allowance for housing while on that initial field duty unless the commanding officer of the member certifies that the member was necessarily required to procure quarters at the member's expense.

(2)(A) Except as provided in subparagraphs (B) and (C), a member of a uniformed service without dependents who is in a pay grade below pay grade E–6 is not entitled to a basic allowance for housing while the member is on sea duty.

(B) Under regulations prescribed by the Secretary concerned, the Secretary may authorize the payment of a basic allowance for housing to a member of a uniformed service without dependents who is serving in pay grade E–4 or E–5 and is assigned to sea duty. In prescribing regulations under this subparagraph, the Secretary concerned shall consider the availability of quarters for members serving in pay grades E–4 and E–5.

(C) Notwithstanding section 421 of this title, two members of the uniformed services in a pay grade below pay grade E–6 who are married to each other, have no other dependents, and are simultaneously assigned to sea duty are each entitled to a basic allowance for housing during the period of such simultaneous sea duty. The amount of the allowance payable to a member under the preceding sentence shall be based on the without dependents rate for the pay grade of the member.

(3) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, shall prescribe regulations defining the terms ''field duty'' and ''sea duty'' for purposes of this section.

(g) RESERVE MEMBERS.—(1) A member of a reserve component without dependents who is called or ordered to active duty to attend accession training, in support of a contingency operation, or for a period of more than 30 days, or a retired member without dependents who is ordered to active duty under section 688(a) of title 10 in support of a contingency operation or for a period of more than 30 days, may not be denied a basic allowance for housing if, because of that call or order, the member is unable to continue to occupy a residence—

(A) which is maintained as the primary residence of the member at the time of the call or order; and

(B) which is owned by the member or for which the member is responsible for rental payments.

(2) The Secretary concerned may provide a basic allowance for housing to a member described in paragraph (1) at a monthly rate equal to the rate of the basic allowance for housing established under subsection (b) or the overseas basic allowance for housing established under subsection (c), whichever applies to the location at which the member is serving, for members in

the same grade at that location without dependents. The member may receive both a basic allowance for housing under paragraph (1) and under this paragraph for the same month, but may not receive the portion of the allowance authorized under section 404 of this title, if any, for lodging expenses if a basic allowance for housing is provided under this paragraph.

(3) Paragraphs (1) and (2) shall not apply if the member is authorized transportation of household goods under section 406 of this title as part of the call or order to active duty described in such paragraph.

(4) The rate of basic allowance for housing to be paid to the following members of a reserve component shall be equal to the rate in effect for similarly situated members of a regular component of the uniformed services:

(A) A member who is called or ordered to active duty for a period of more than 30 days.

(B) A member who is called or ordered to active duty for a period of 30 days or less in support of a contingency operation.

(5) The Secretary of Defense shall establish a rate of basic allowance for housing to be paid to a member of a reserve component while the member serves on active duty under a call or order to active duty specifying a period of 30 days or less, unless the call or order to active duty is in support of a contingency operation.

(h) RENTAL OF PUBLIC QUARTERS.—Notwithstanding any other law (including those restricting the occupancy of housing facilities under the jurisdiction of a department or agency of the United States by members, and their dependents, of the armed forces above specified grades, or by members, and their dependents, of the National Oceanic and Atmospheric Administration and the Public Health Service), a member of a uniformed service, and the dependents of the member, may be accepted as tenants in, and may occupy on a rental basis, any of those housing facilities, other than public quarters constructed or designated for assignment to an occupancy without charge by such a member and the dependents of the member, if any. Such a member may not, because of occupancy under this subsection, be deprived of any money allowance to which the member is otherwise entitled for the rental of quarters.

(i) TEMPORARY HOUSING ALLOWANCE WHILE IN TRAVEL OR LEAVE STATUS.—A member of a uniformed service is entitled to a temporary basic allowance for housing (at a rate determined by the Secretary of Defense) while the member is in a travel or leave status between permanent duty stations, including time granted as delay en route or proceed time, when the member is not assigned to quarters of the United States.

(j) AVIATION CADETS.—The eligibility of an aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard for a basic allowance for housing shall be determined as if the aviation cadet were a member of the uniformed services in pay grade E–4.

(k) ADMINISTRATION.—(1) The Secretary of Defense shall prescribe regulations for the administration of this section.

(2) The Secretary concerned may make such determinations as may be necessary to administer this section, including determinations of dependency and relationship. When warranted by the circumstances, the Secretary concerned may reconsider and change or modify any such determination. The authority of the Secretary concerned under this subsection may be delegated. Any determination made under this section with regard to a member of the uniformed services is final and is not subject to review by any accounting officer of the United States or a court, unless there is fraud or gross negligence.

(3) Parking facilities (including utility connections) provided members of the uniformed services for house trailers and mobile homes not owned by the Government shall not be considered to be quarters for the purposes of this section or any other provision of law. Any fees established by the Government for the use of such a facility shall be established in an amount sufficient to cover the cost of maintenance, services, and utilities and to amortize the cost of construction of the facility over the 25-year period beginning with the completion of such construction.

(*l*) TEMPORARY CONTINUATION OF ALLOWANCE FOR DEPENDENTS OF MEMBERS DYING ON ACTIVE DUTY.—(1) The Secretary of Defense, or the Secretary of Homeland Security in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the armed forces who dies on active duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Homeland Security in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of 365 days.

(2) The Secretary concerned may pay a basic allowance for housing (at the rate that is payable for members of the same grade and dependency status as the deceased member for the area where the dependents are residing) to the dependents of a member of the uniformed services who dies while on active duty and whose dependents—

(A) are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death;

(B) are occupying such housing on a rental basis on such date; or

(C) vacate such housing sooner than 365 days after the date of the member's death.

(3) An allowance may be paid under paragraph (2) to the spouse of the deceased member even though the spouse is also a member of the uniformed services. The allowance paid under such paragraph is in addition to any other pay and allowances to which the spouse is entitled as a member.

(4) The payment of the allowance under paragraph (2) shall terminate 365 days after the date of the member's death.

(m) MEMBERS PAYING CHILD SUPPORT.—(1) A member of a uniformed service with dependents may not be paid a basic allowance for housing at the with dependents rate solely by reason of the payment of child support by the member if—

(A) the member is assigned to a housing facility under the jurisdiction of a uniformed service; or

(B) the member is assigned to sea duty, and elects not to occupy assigned quarters for unaccompanied personnel, unless the member is in a pay grade above E–3.

(2) A member of a uniformed service assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service who is not otherwise authorized a basic allowance for housing and who pays child support is entitled to the basic allowance for housing differential, except for months for which the amount payable for the child support is less than the rate of the differential. Payment of a basic allowance for housing differential does not affect any entitlement of the member to a partial allowance for quarters under subsection (n).

(3) The basic allowance for housing differential to which a member is entitled under paragraph (2) is the amount equal to the difference between—

(A) the rate of the basic allowance for quarters (with dependents) for the member's pay grade, as such rate was in effect on December 31, 1997, under this section (as in effect on that date); and

(B) the rate of the basic allowance for quarters (without dependents) for the member's pay grade, as such rate was in effect on December 31, 1997, under this section (as in effect on that date).

(4) Whenever the rates of basic pay for members of the uniformed services are increased, the monthly amount of the basic allowance for housing differential computed under paragraph (3) shall be increased by the average percentage increase in the rates of basic pay. The effective date of the increase shall be the same date as the effective date of the increase in the rates of basic pay.

(5) In the case of two members, who have one or more common dependents (and no others), who are not married to each other, and one of whom pays child support to the other, the amount of the basic allowance for housing paid to each member under this section shall be reduced in accordance with regulations prescribed by the Secretary of Defense. The total amount of the basic allowances for housing paid to the two members may not exceed the sum of the amounts of the allowance to which each member would be otherwise entitled under this section.

(n) PARTIAL ALLOWANCE FOR MEMBERS WITHOUT DEPENDENTS.—(1) A member of a uniformed service without dependents who is not entitled to receive a basic allowance for housing under subsection (b), (c), or (d) is entitled to a partial basic allowance for housing at a rate determined by the Secretary of Defense under paragraph (2).

(2) The rate of the partial basic allowance for housing is the partial rate of the basic allowance for quarters for the member's pay grade as such partial rate was in effect on December 31, 1997, under section 1009(c)(2) of this title (as such section was in effect on such date).

(*o*) TREATMENT OF LOW-COST AND NO-COST MOVES AS NOT BEING REASSIGNMENTS.—In the case of a member who is assigned to duty at a location or under circumstances that make it necessary for the member to be reassigned under the conditions of low-cost or no-cost permanent change of station or permanent change of assignment, the member may be treated for the purposes of this section as if the member were not reassigned if the Secretary concerned determines that it would be inequitable to base the member's entitlement to, and amount of, a basic allowance for housing on the cost of housing in the area to which the member is reassigned.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 88–132, §10, Oct. 2, 1963, 77 Stat. 216; Pub. L. 89–718, §§49(a)(1), 54, Nov. 2, 1966, 80 Stat. 1121, 1122; Pub. L. 90–207, §1(3), Dec. 16, 1967, 81 Stat. 651; Pub. L. 92–129, title II, §204, Sept. 28, 1971, 85 Stat. 358; Pub. L. 93–64, title I, §105, July 9, 1973, 87 Stat. 148; Pub. L. 93–419, §3(6), Sept. 19, 1974, 88 Stat. 1152; Pub. L. 96–343, §4(a)(1), (2), Sept. 8, 1980, 94 Stat. 1125; Pub. L. 96–513, title V, §516(10), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96–579, §§6(a)–(c), 7, Dec. 23, 1980, 94 Stat. 3367, 3368; Pub. L. 97–22, §11(b)(2), July 10, 1981, 95 Stat. 138; Pub. L. 98–94, title IX, §907(a), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98–525, title VI, §§602(c), 604(a), Oct. 19, 1984, 98 Stat. 2534, 2537; Pub. L. 99–145, title VI, §§604(a), 605(a), title VIII, §809(b), title XIII, §1303(b)(6), Nov. 8, 1985, 99 Stat. 638, 681, 740; Pub. L. 99–227, §1, Dec. 28, 1985, 99 Stat. 1745; Pub. L. 100–26, §8(d)(5), Apr. 21, 1987, 101 Stat. 285; Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title VI, §§602(a), 604(a), 632(a), Dec. 5, 1991, 105 Stat. 1373, 1374, 1380; Pub. L. 103–337, div. A, title VI, §604(a), (b), Oct. 5, 1994, 108 Stat. 2782; Pub. L. 104–106, div. A, title VI, §§603(a), 604(a), Feb. 10, 1996, 110 Stat. 357, 358; Pub. L. 104–201, div. A, title VI, §§604(a)–(c), 605, Sept. 23, 1996, 110 Stat. 2540, 2541; Pub. L. 105–85, div. A, title VI, §603(a), Nov. 18, 1997, 111 Stat. 1775; Pub. L. 105–261, div. A, title VI, §603(a), Oct. 17, 1998, 112 Stat. 2037; Pub. L. 106–398, §1 [[div. A], title VI, §§605(a)–(d), 607, 608, title X, §1087(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–147 to 1654A–149, 1654A–292; Pub. L. 107–107, div. A, title VI, §605(a), Dec. 28, 2001, 115 Stat. 1134; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, §602, Dec. 2, 2002, 116 Stat. 2566; Pub. L. 108–136, div. A, title VI, §605(a), Nov. 24, 2003, 117 Stat. 1500; Pub. L. 108–375, div. A, title VI, §§603, 604, Oct. 28, 2004, 118 Stat. 1944; Pub. L. 109–13, div. A, title I, §1022(a), May 11, 2005, 119 Stat. 251; Pub. L. 109–163, div. A, title VI, §§609(a), 610, 611, Jan. 6, 2006, 119 Stat. 3289, 3290; Pub. L. 109–364, div. A, title VI, §§604(a), 605(a), Oct. 17, 2006, 120 Stat. 2245, 2246; Pub. L. 110–181, div. A, title VI, §§602(a), 603(b), Jan. 28, 2008, 122 Stat. 145.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 403(a) ..... | 37:252(a).<br>37:252(f). | Oct. 12, 1949, ch. 681, §302(a)–(f), 63 Stat. 812; |
| 403(b) ..... | 37:252(b). | May 19, 1952, ch. 310, |
| 403(c) ..... | 37:252(c). | §1(b), (c), 66 Stat. 79; |
| 403(d) ..... | 37:252(d). | May 20, 1958, Pub. L. 85–422, §1(9), 72 Stat. 127. |
| 403(e) ..... | 37:111a. | July 2, 1945, ch. 227, 59 Stat. 316. |
| 403(f) ..... | 37:320. | June 29, 1950, ch. 405, |
| 403(g) ..... | 37:252(e). | §102, 64 Stat. 288. |

In subsection (a), the words ''at the following monthly rates'' are substituted for the words ''in such amount and under such circumstances as are provided in this section''. Section 252(f) (words before table) of existing title 37 is omitted as surplusage.

In subsections (b), (d), and (e), the words ''United States'' are substituted for the word ''Government''.

In subsection (c), the words ''a period'' are substituted for the words ''temporary periods''.

In subsection (e), the words ''member'' and ''members'' are substituted for the word ''personnel''.

In subsection (f), the words ''may be used'' are substituted for the words ''shall be available''. The words ''for any periods after June 29, 1950,'' are omitted as executed. The words ''(as defined in sections 231(g) and 252 of this title)'' are omitted as covered by section 401 of this revised title.

In subsection (g), the word ''including'' is substituted for the words ''and such regulations shall include, but not be limited to''.

AMENDMENTS

2008—Subsec. (b)(7)(E). Pub. L. 110–181, § 603(b), substituted ''December 31, 2009'' for ''December 31, 2008''.

Subsec. (g)(1). Pub. L. 110–181, § 602(a), inserted ''to attend accession training,'' after ''called or ordered to active duty'' and inserted a comma after ''contingency operation'' the first time appearing.

2006—Subsec. (b)(7). Pub. L. 109–163, § 609(a), added par. (7).

Subsec. (g)(1). Pub. L. 109–163, § 610(b), inserted ''or for a period of more than 30 days'' after ''in support of a contingency operation'' in two places in introductory provisions.

Subsec. (g)(2). Pub. L. 109–364, § 604(a)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (g)(3). Pub. L. 109–364, § 604(a)(1), (3), redesignated par. (2) as (3) and substituted ''Paragraphs (1) and (2)'' for ''Paragraph (1)''. Former par. (3) redesignated (4).

Pub. L. 109–163, § 610(a)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (g)(4). Pub. L. 109–364, § 604(a)(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Pub. L. 109–163, § 610(a)(1), (3), redesignated par. (3) as (4) and substituted ''30 days or less'' for ''less than 140 days''.

Subsec. (g)(5). Pub. L. 109–364, § 604(a)(1), redesignated par. (4) as (5).

Subsec. (*l*). Pub. L. 109–163, § 611, substituted ''365 days'' for ''180 days'' wherever appearing.

Subsec. (*l*)(3), (4). Pub. L. 109–364, § 605(a), added par. (3) and redesignated former par. (3) as (4).

2005—Subsec. (*l*). Pub. L. 109–13, § 1022, temporarily substituted ''365 days'' for ''180 days'' wherever appearing. See Effective and Termination Dates of 2005 Amendments note below.

2004—Subsec. (d). Pub. L. 108–375, § 604(1), substituted ''DO NOT'' for ''ARE UNABLE TO'' in heading.

Subsec. (d)(1). Pub. L. 108–375, § 603(1), substituted ''may be paid'' for ''is entitled to''.

Subsec. (d)(3)(C). Pub. L. 108–375, § 604(2), added subpar. (C).

Subsec. (d)(4). Pub. L. 108–375, § 603(2), inserted first sentence and struck out former first sentence which read as follows: ''The family separation basic allowance for housing under this subsection shall be in addition to any other allowance or per diem that the member is otherwise entitled to receive under this title.''

2003—Subsec. (f)(2)(C). Pub. L. 108–136 substituted ''are each entitled to a basic allowance for housing'' for ''are jointly entitled to one basic allowance for housing'' in first sentence, inserted second sentence, and struck out former second and third sentences which read as follows: ''The amount of the allowance shall be based on the without dependents rate for the pay grade of the senior member of the couple. However, this subparagraph shall not apply to a couple if one or both of the members are entitled to a basic allowance for housing under subparagraph (B).''

2002—Subsec. (b)(7). Pub. L. 107–314, § 602(1), redesignated par. (7) as subsec. (*o*).

Subsecs. (f)(3), (*l*)(1). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation'' wherever appearing.

Subsec. (*o*). Pub. L. 107–314 redesignated subsec. (b)(7) as subsec. (*o*), inserted heading, substituted ''In the case of a member who is assigned to duty at a location or under circumstances that make it necessary for the member to be'' for ''In the case of a member who is assigned to duty inside the United States, the location or the circumstances of which make it necessary that the member be'', and inserted ''for the purposes of this section'' after ''may be treated''.

2001—Subsec. (i). Pub. L. 107–107 struck out ''who is in a pay grade E–4 (4 or more years of service) or above'' after ''A member of a uniformed service''.

2000—Subsec. (b)(1). Pub. L. 106–398, § 1 [[div. A], title VI, § 605(a)(3)], added par. (1). Former par. (1) redesignated (2).

Subsec. (b)(2). Pub. L. 106–398, § 1 [[div. A], title VI, § 607(a)], inserted at end ''After June 30, 2001, the Secretary may not differentiate between members with dependents in pay grades E–1 through E–4 in determining what constitutes adequate housing for members.''

Pub. L. 106–398, § 1 [[div. A], title VI, § 605(a)(1), (2)], redesignated par. (1) as (2) and struck out former par. (2) which read as follows: ''Subject to paragraph (3), the monthly amount of a basic allowance for housing for an area of the United States for a member of a uniformed service is equal to the difference between—

''(A) the monthly cost of adequate housing in that area, as determined by the Secretary of Defense, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member; and

''(B) 15 percent of the national average monthly cost of adequate housing in the United States, as determined by the Secretary, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member.''

Subsec. (b)(3). Pub. L. 106–398, § 1 [[div. A], title VI, § 605(b)], added par. (3) and struck out former par. (3) which read as follows: ''The rates of basic allowance for housing shall be reduced as necessary to comply with this paragraph. The total amount that may be paid for a fiscal year for the basic allowance for housing under this subsection is the product of—

''(A) the total amount authorized to be paid for such allowance for the preceding fiscal year (as adjusted under paragraph (5)); and

''(B) a fraction—

''(i) the numerator of which is the index of the national average monthly cost of housing for June of the preceding fiscal year; and

''(ii) the denominator of which is the index of the national average monthly cost of housing for June of the fiscal year before the preceding fiscal year.''

Subsec. (b)(5). Pub. L. 106–398, § 1 [[div. A], title VI, § 607(b)], added par. (5).

Pub. L. 106–398, § 1 [[div. A], title VI, § 605(b)(1)], struck out par. (5) which read as follows: ''In making a determination under paragraph (3) for a fiscal year, the amount authorized to be paid for the preceding fiscal year for the basic allowance for housing shall be adjusted to reflect changes during the year for which the determination is made in the number, grade distribution, geographic distribution in the United States, and dependency status of members of the uniformed services entitled to the allowance from the number of such members during the preceding fiscal year.''

Subsec. (b)(6). Pub. L. 106–398, § 1 [[div. A], title VI, § 605(c)(1)], struck out '', changes in the national average monthly cost of housing,'' after ''housing costs in the area''.

Subsec. (b)(7). Pub. L. 106–398, § 1 [[div. A], title VI, § 605(c)(2)], struck out ''without dependents'' after ''In the case of a member''.

Subsec. (d)(3). Pub. L. 106–398, §1 [[div. A], title VI, §605(d)], added par. (3) and struck out former par. (3) which read as follows: ''In the case of a member with dependents who is assigned to duty at a location or under circumstances that, as determined by the Secretary concerned, require the member's dependents to reside at a different location, the member shall receive a basic allowance for housing, as provided in subsection (a) or (b), as if the member were assigned to duty in the area in which the dependents reside, regardless of whether the member resides in quarters of the United States or is also entitled to a family separation basic allowance for housing by reason of paragraph (1).''

Subsec. (f)(2)(B). Pub. L. 106–398, §1 [[div. A], title VI, §608(a)], substituted ''E–4 or E–5'' for ''E–5'' in first sentence and ''grades E–4 and E–5'' for ''grade E–5'' in second sentence.

Subsec. (f)(3). Pub. L. 106–398, §1 [[div. A], title X, §1087(b)(2)], substituted ''regulations'' for ''regulation''.

Subsec. (m)(1)(B). Pub. L. 106–398, §1 [[div. A], title VI, §608(b)], substituted ''E–3'' for ''E–4''.

1998—Subsec. (c)(3). Pub. L. 105–261 added par. (3).

1997—Pub. L. 105–85 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (m) relating to basic allowances for quarters.

1996—Subsec. (b). Pub. L. 104–106, §603(a), designated first sentence as par. (1), designated second sentence as par. (2) and substituted ''Subject'' for ''However, subject'', and added par. (3).

Subsec. (b)(3). Pub. L. 104–201, §605, substituted ''Subject to the provisions of subsection (j), a member'' for ''A member''.

Subsec. (c)(2). Pub. L. 104–201, §604(a)–(c), designated first sentence as subpar. (A) and substituted ''Except as provided in subparagraphs (B) and (C), a member'' for ''A member'', added subpars. (B) and (C), and struck out former second sentence which read as follows: ''A member of a uniformed service without dependents who is in a pay grade above E–5 who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting.''

Pub. L. 104–106, §604(a), substituted ''E–6'' for ''E–7'' in first sentence and ''E–5'' for ''E–6'' in second sentence.

1994—Subsec. (*l*). Pub. L. 103–337 substituted ''180 days'' for ''90 days'' wherever appearing.

1991—Subsec. (a). Pub. L. 102–190, §604(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 102–25, §702(b)(1), struck out ''of this section'' after ''subsection (j)''.

Subsec. (d). Pub. L. 102–190, §632(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (j)(1). Pub. L. 102–190, §604(a)(2), substituted ''Secretary of Defense shall'' for ''President may''.

Subsec. (j)(2). Pub. L. 102–25, §702(b)(1), struck out ''of this section'' after ''subsection (b)''.

Subsec. (m). Pub. L. 102–190, §602(a), added subsec. (m).

1987—Subsec. (*l*)(1). Pub. L. 100–26 substituted ''armed forces'' for ''Armed Forces''.

1985—Subsec. (a). Pub. L. 99–145, §1303(b)(6), inserted ''or as otherwise prescribed by law'' after ''of this title''.

Pub. L. 99–145, §604(a), inserted provision permitting the allowance authorized by this section to be paid in advance.

Subsec. (c)(1). Pub. L. 99–145, §605(a)(1), substituted ''who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a basic allowance for quarters while on that initial field duty'' for ''is not entitled to a basic allowance for quarters while he is on field duty''.

Subsec. (c)(2). Pub. L. 99–145, §605(a)(2), substituted ''who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting'' for ''and who is on sea duty is not entitled to a basic allowance for quarters while the unit to which he is assigned is deployed for a period in excess of 90 days''.

Subsec. (c)(3). Pub. L. 99–145, §605(a)(3), struck out par. (3) which provided that for purposes of this subsection, duty for a period of less than three months was not considered to be field duty or sea duty.

Subsec. (k). Pub. L. 99–145, §809(b), substituted ''25-year period'' for ''15-year period''.

Subsec. (*l*). Pub. L. 99–227 added subsec. (*l*).

1984—Pub. L. 98–525, §602(c)(2), struck out ''; variable housing allowance'' in section catchline.

Subsec. (a). Pub. L. 98–525, §602(c)(1), struck out designation for par. (1) preceding ''Except as otherwise provided by law'' and struck out par. (2) which related to variable housing allowances.

Subsec. (j)(2). Pub. L. 98–525, §604(a), inserted reference to training missions.

1983—Subsec. (a)(2)(A), (D). Pub. L. 98–94 substituted ''Except as provided in subparagraph (D) of this paragraph, a member'' for ''A member'' at beginning of subpar. (A), and added subpar. (D).

1981—Subsec. (b). Pub. L. 97–22 substituted ''pay grade E–6'' for ''pay grade F–6''.

1980—Pub. L. 96–343, §4(a)(2), substituted ''for quarters; variable housing allowance'' for ''for quarters'' in section catchline.

Subsec. (a). Pub. L. 96–343, §4(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 96–579, §6(a)(1), (2), substituted in second sentence ''subject to the provisions of subsection (j)'' for ''except as provided by regulations prescribed under subsection (j)'', ''member'' for ''commissioned officer'', and ''F–6'' for ''C–3''. Because ''C–3'' did not appear in this subsection, ''F–6'' was substituted for ''O–3'' as the probable intent of Congress.

Subsec. (c). Pub. L. 96–579, §6(b), reenacted existing text in provisions designated as pars. (1) and (3), and substituted par. (2) respecting nonentitlement to basic allowance for quarters when on sea duty for member of a uniformed service in pay grade below E–7 or above E–6 for prior nonentitlement provision for such member when on sea duty.

Subsec. (e). Pub. L. 96–513, §516(10)(A), substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

Subsec. (j). Pub. L. 96–579, §6(c), designated existing provisions as par. (1) and added par. (2).

Pub. L. 96–513, §516(10)(B), substituted ''terms'' for ''words''.

Subsec. (k). Pub. L. 96–579, §7, added subsec. (k).

1974—Subsec. (a). Pub. L. 93–419 substituted reference to section 1009 of this title for provisions setting out in tables the rates of basic allowance for quarters for members of uniformed services.

1973—Subsec. (a). Pub. L. 93–64, §105(1), (2), substituted in table provisions reading:

| | | |
|---|---|---|
| ''E–4 | $81.60 | $121.50 |
| E–3 | 72.30 | 105.00 |
| E–2 | 63.90 | 105.00 |
| E–1 | 60.00 | 105.00'' |
| for former provisions reading: | | |
| ''E–4 (over 4 years' service) | 81.60 | 121.50 |
| E–4 (4 years' or less service) | 45.00 | 45.00 |
| E–3 | 45.00 | 45.00 |
| E–2 | 45.00 | 45.00 |
| E–1 | 45.00 | 45.00'' |

and struck out ''A member in pay grade E–4 (less than four years' service), E–3, E–2, or E–1 is considered at all times to be without dependents.''.

Subsec. (b). Pub. L. 93–64, §105(3), in second sentence substituted reference to subsection ''(j)'' for ''(g)''.

Subsecs. (g) to (j). Pub. L. 93–64, §105(4), (5), added subsecs. (g) to (i) and redesignated former subsec. (g) as (j).

1971—Subsec. (a). Pub. L. 92–129 increased quarters allowances as shown in table. Prior to this amendment the table was set out as follows:

| ''Pay grade | Without dependents | With dependents |
|---|---|---|
| O–10 | $160.20 | $201.00 |
| O–9 | 160.20 | 201.00 |
| O–8 | 160.20 | 201.00 |
| O–7 | 160.20 | 201.00 |
| O–6 | 140.10 | 170.10 |
| O–5 | 130.20 | 157.50 |
| O–4 | 120.00 | 145.05 |
| O–3 | 105.00 | 130.05 |
| O–2 | 95.10 | 120.00 |
| O–1 | 85.20 | 110.10 |
| W–4 | 120.00 | 145.05 |
| W–3 | 105.00 | 130.05 |
| W–2 | 95.10 | 120.00 |
| W–1 | 85.20 | 110.10 |
| E–9 | 85.20 | 120.00 |
| E–8 | 85.20 | 120.00 |
| E–7 | 75.00 | 114.90 |
| E–6 | 70.20 | 110.10 |
| E–5 | 70.20 | 105.00 |
| E–4 (over 4 years' service) | 70.20 | 105.00 |
| E–4 (4 years' or less service) | 45.00 | 45.00 |
| E–3 | 45.00 | 45.00 |
| E–2 | 45.00 | 45.00 |
| E–1 | 45.00 | 45.00'' |

1967—Subsec. (f). Pub. L. 90–207 substituted provisions authorizing the payment of a basic allowance for quarters to a member of a uniformed service without dependents who is in pay grade E–4 (four or more years' service) or above for the period he is in a travel or leave status between permanent duty stations for provisions which precluded the payment of a basic allowance for quarters to a member of a uniformed service without dependents while in a permanent change of station status.

1966—Subsec. (a). Pub. L. 89–718 increased the quarters allowances as shown on the table. Prior to this amendment the table was set out as follows:

| ''Pay grade | Without dependents | With dependents |
|---|---|---|
| O–10 | $171.00 | $136.80 |
| O–9 | 171.00 | 136.80 |
| O–8 | 171.00 | 136.80 |
| O–7 | 171.00 | 136.80 |
| O–6 | 136.80 | 119.70 |
| O–5 | 136.80 | 102.60 |
| O–4 | 119.70 | 94.20 |
| O–3 | 102.60 | 85.50 |
| O–2 | 94.20 | 77.10 |
| O–1 | 85.50 | 68.40 |
| W–4 | 119.70 | 94.20 |
| W–3 | 102.60 | 85.50 |
| W–2 | 94.20 | 77.10 |
| W–1 | 85.50 | 68.40 |
| E–9 | 67.50 | 45.00 |
| E–8 | 67.50 | 45.00 |
| E–7 | 67.50 | 45.00 |
| E–6 | 67.50 | 45.00 |
| E–5 | 67.50 | 45.00 |
| E–4 (7 or more years' service creditable under section 205) | 67.50 | 45.00 |
| E–4 (less than 7 years' service creditable under section 205) | 45.00 | 45.00 |
| E–3 | 45.00 | 45.00 |
| E–2 | 45.00 | 45.00 |
| E–1 | 45.00 | 45.00'' |

Subsec. (e). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''.

1963—Subsec. (b). Pub. L. 88–132 authorized election by certain officers without dependents not to occupy government quarters.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VI, § 602(b), Jan. 28, 2008, 122 Stat. 145, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to months beginning on or after the date of the enactment of this Act [Jan. 28, 2008].''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title VI, § 604(b), Oct. 17, 2006, 120 Stat. 2246, provided that: ''Paragraph (2) of section 403(g) of title 37, United States Code, as added by subsection (a), shall apply with respect to months beginning on or after October 1, 2006.''

Pub. L. 109–364, div. A, title VI, § 605(b), Oct. 17, 2006, 120 Stat. 2246, provided that:

''(1) GENERAL RULE.—The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2006.

''(2) TRANSITIONAL RULE.—After October 1, 2006, the Secretary of Defense, and the Secretary of Homeland Security in the case of the Coast Guard, may pay the allowance authorized by section 403(*l*)(2) of title 37, United States Code, to a member of the uniformed services who is the spouse of a member who died on active duty during the one-year period ending on that date, except that the payment of the allowance must terminate within 365 days after the date of the member's death.''

Pub. L. 109–163, div. A, title VI, § 609(c), Jan. 6, 2006, 119 Stat. 3290, provided that: ''The amendments made by this section [amending this section and section 404a of this title] shall apply with respect to months beginning on or after September 1, 2005.''

Pub. L. 109–163, div. A, title VI, § 611, Jan. 6, 2006, 119 Stat. 3290, provided in part that the amendment of this section by section 611 is effective immediately after the termination, pursuant to section 1022(b) of Pub. L. 109–13 and section 124 of Pub. L. 109–177, of the amendments made by section 1022(a) of Pub. L. 109–13. See Effective and Termination Dates of 2005 Amendments note below.

EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENTS

Pub. L. 109–77, § 124, Sept. 30, 2005, 119 Stat. 2041, provided that: ''The amendment made by section 1022 of Public Law 109–13 [amending this section] shall continue in effect through the date specified in section 106(3) of this joint resolution [Dec. 31, 2005].''

Pub. L. 109–13, div. A, title I, § 1022(b), May 11, 2005, 119 Stat. 251, provided that: ''The amendment made by this section [amending this section] shall terminate on September 30, 2005. Effective on October 1, 2005, the provisions of section 403(*l*) of title 37, United States Code, as in effect on the date before the date of the enactment of this Act [May 11, 2005] shall be revived.''

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title VI, § 605(b), Nov. 24, 2003, 117 Stat. 1500, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect as of October 1, 2003, and apply to months beginning on or after that date.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VI, § 605(b), Dec. 28, 2001, 115 Stat. 1134, provided that: ''The amendment made by this section [amending this section] shall take effect on January 1, 2003, and apply to members of the uniformed services in a travel or leave status between permanent duty stations on or after that date.''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title VI, § 605(f)], Oct. 30, 2000, 114 Stat. 1654, 1654A–148, provided that:

''(1) The amendments made by this section [amending this section and provisions set out as a note below] shall take effect on October 1, 2000.

''(2) In the case of the amendment made by subsection (c)(2) [amending this section], the amendment

shall apply with respect to pay periods beginning on and after October 1, 2000, for a member of the uniformed services covered by the provision of law so amended regardless of the date on which the member was first reassigned to duty under the conditions of a low-cost or no-cost permanent change of station or permanent change of assignment.

''(3) In the case of the amendment made by subsection (d) [amending this section], the amendment shall apply with respect to pay periods beginning on and after October 1, 2000, for a member of the uniformed services covered by the provision of law so amended regardless of the date on which the member was first assigned to duty in an area that is different from the area in which the member's dependents reside.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title VI, §603(c), Oct. 17, 1998, 112 Stat. 2037, provided that: ''The reimbursement authority provided by section 403(c)(3)(B) of title 37, United States Code, as added by subsection (a), applies with respect to losses relating to housing that are sustained, on or after July 1, 1997, by a member of the uniformed services as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENTS

Section 604(e) of Pub. L. 104–201 provided that: ''The amendments made by this section [amending this section and section 403a of this title] shall take effect on July 1, 1997.''

Section 603(b) of Pub. L. 104–106 provided that: ''The amendments made by this section [amending this section] shall take effect on July 1, 1996.''

Section 604(b) of Pub. L. 104–106 provided that: ''The amendments made by this section [amending this section] shall take effect on July 1, 1996.''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 604(c) of Pub. L. 103–337 provided that: ''The amendments made by this section [amending this section] shall take effect as of October 1, 1993.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 604(c) of Pub. L. 102–190 provided that: ''The amendments made by this section [amending this section and section 403a of this title] shall take effect six months after the date of the enactment of this Act [Dec. 5, 1991].''

Section 632(b) of Pub. L. 102–190 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 5, 1991] and shall apply to calls or orders of members of the reserve components of the Armed Forces to active duty on or after that date.''

EFFECTIVE DATE OF 1985 AMENDMENTS

Section 2 of Pub. L. 99–227 provided that: ''The amendments made by section 1 of this Act [amending this section] shall take effect December 12, 1985, and shall apply only with respect to housing for and payment of an allowance for quarters to dependents of members of the uniformed services who died on or after that date.''

Section 604(c) of Pub. L. 99–145 provided that: ''The amendments made by this section [amending this section and section 403a of this title] shall take effect on October 1, 1985.''

Section 605(b) of Pub. L. 99–145 provided that:

''(1) The amendments made by paragraphs (1) and (2) of subsection (a) [amending this section] shall take effect on October 1, 1985.

''(2) The amendment made by paragraph (3) of subsection (a) [amending this section] shall take effect on January 1, 1986.''

Amendment by section 809(b) of Pub. L. 99–145 effective Oct. 1, 1985, see section 813 of Pub. L. 99–145, formerly set out in a Military Family Policy and Programs note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 602(f) of Pub. L. 98–525, as amended by Pub. L. 99–145, title VI, §603(b), Nov. 8, 1985, 99 Stat. 637; Pub. L. 99–661, div. A, title XIII, §1342(b), Nov. 14, 1986, 100 Stat. 3991, provided that:

''(1) Except as provided in paragraph (2), the amendments made by this section [enacting section 403a of this title, amending this section, section 405 of this title, section 7572 of Title 10, Armed Forces, and provisions set out as a note under this section, and enacting provisions set out as a note under this section] shall take effect on January 1, 1985.

''(2)(A) A member shall be entitled to receive a station housing allowance under section 405 of title 37, United States Code, as if the amendments made by subsection (e) [amending section 405 of this title] had not been enacted, if the member, on the date of the enactment of the Department of Defense Authorization Act, 1986 [Nov. 8, 1985]—

''(i) is assigned to a permanent duty station in Alaska or Hawaii; and

''(ii) is entitled to payment of a temporary lodging allowance or a station housing allowance under section 405 of such title.

''(B) A member who is entitled to a station housing allowance by reason of subparagraph (A) shall only be entitled to such allowance until the earlier of—

''(i) the date on which the member changes residence in conjunction with a permanent change of duty station; or

''(ii) the expiration of the four-year period beginning on the date of the enactment of the Department of Defense Authorization Act, 1986 [Nov. 8, 1985].

''(C) A member who is entitled to a station housing allowance by reason of subparagraph (A) shall not be entitled to a variable housing allowance, except that such a member serving an unaccompanied tour of duty in Alaska or Hawaii may be paid a variable housing allowance based on the residence of the member's dependents in another State.

''(3) For the period beginning on January 1, 1985, and ending on September 30, 1985, the limitation applicable under subsection (d)(1) of section 403a of title 37, United States Code (as added by subsection (d)), on the total amount that may be paid during a fiscal year for the variable housing allowance authorized members of the uniformed services by that section shall be 15 percent of the median annual costs of housing in the United States for members of the uniformed services as measured during fiscal year 1984. In determining for the purposes of clause (A) of such subsection the total amount authorized to be paid for such allowance for fiscal year 1985, such amount shall be determined as if the amendments made by this section took effect on October 1, 1984.''

[Amendment of this note by Pub. L. 99–661 effective Nov. 14, 1986, see section 1342(h)(1) of Pub. L. 99–661, set out as an Effective Date of 1986 Amendment note under section 301 of this title.]

Section 604(b) of Pub. L. 98–525 provided that: ''The amendment made by subsection (a) [amending this section] shall apply only with respect to members making an election under section 403(b) of title 37, United States Code, after September 30, 1984.''

EFFECTIVE DATE OF 1983 AMENDMENT

Section 907(b) of Pub. L. 98–94 provided that: ''The amendments made by subsection (a) [amending this

section] shall apply only with respect to members called or ordered to active duty after September 30, 1983.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 11(b)(2) of Pub. L. 97–22 provided that the amendment made by that section is effective Oct. 1, 1980.

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 6(d) of Pub. L. 96–579 provided that: ''The amendments made by this section [amending this section] shall only apply to payment of basic allowance for quarters for months after September 1980.''

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

Section 4(b) of Pub. L. 96–343 provided that: ''Paragraph (2) of section 403(a) of title 37, United States Code, as added by subsection (a), shall take effect on September 30, 1981.''

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–419 effective Sept. 19, 1974, see section 9 of Pub. L. 93–419, set out as an Effective Date note under section 1009 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–64 effective July 1, 1973, see section 206 of Pub. L. 93–64, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–129 effective Oct. 1, 1971, see section 209 of Pub. L. 92–129, set out as an Effective Date note under section 302a of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of this title.

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), 551(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.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service, transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

MINIMUM RATES OF BASIC ALLOWANCE; ANNUAL LIMITATION

Pub. L. 106–246, div. B, title I, §101(a), (b), July 13, 2000, 114 Stat. 528, provided that:

''(a) MINIMUM RATES OF BASIC ALLOWANCE FOR HOUSING FOR MEMBERS OF THE UNIFORMED SERVICES.—During the period beginning on January 1, 2000, and ending on September 30, 2001 (or such earlier date as the Secretary of Defense considers appropriate), a member of the uniformed services entitled to a basic allowance for housing for a military housing area in the United States shall be paid the allowance at a monthly rate not less than the rate in effect on December 31, 1999, in that area for members serving in the same pay grade and with the same dependency status as the member.

''(b) ANNUAL LIMITATION ON ALLOWANCE.—In light of the rates for the basic allowance for housing authorized by subsection (a), the Secretary of Defense may exceed the limitation on the total amount paid during fiscal year 2000 and 2001 for the basic allowance for housing in the United States otherwise applicable under section 403(b)(3) of title 37, United States Code.''

TRANSITION TO BASIC ALLOWANCE FOR HOUSING

Pub. L. 105–85, div. A, title VI, §603(b), Nov. 18, 1997, 111 Stat. 1781, as amended by Pub. L. 106–398, §1 [[div. A], title VI, §605(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–148, provided that: ''The Secretary of Defense shall develop and implement a plan to incrementally manage the rate of growth of the various components of the basic allowance for housing authorized by section 403 of title 37, United States Code (as amended by subsection (a)), during a transition period of not more than eight years. During the transition period, the Secretary may continue to use the authorities provided under sections 403, 403a, 405(b), and 427(a) of title 37, United States Code (as in effect on the day before the date of the enactment of this Act [Nov. 18, 1997]), but subject to such modifications as the Secretary considers necessary, to provide allowances for members of the uniformed services.''

EXCEPTION TO LIMITATION ON AMOUNT OF BASIC ALLOWANCE FOR QUARTERS FOR MEMBERS RECEIVING ALLOWANCE DUE TO PAYMENT OF CHILD SUPPORT

Section 602(b) of Pub. L. 102–190 provided that subsec. (m) of this section, as added by section 602(a) of Pub. L. 102–190, temporarily was not to apply with respect to a member of a uniformed service assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service who, on the day before Dec. 5, 1991, was entitled to receive a basic allowance for quarters solely by reason of the member's payment of child support.

ACTIVE DUTY IN CONNECTION WITH OPERATION DESERT STORM

Section 310A of Pub. L. 102–25 provided that, during the period beginning on Aug. 2, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict, a member of a reserve component of the uniformed services without dependents who was called or ordered to active duty in connection with Operation Desert Storm was to be entitled to a basic allowance for quarters under this section if, because of the call or order, the member was unable to continue to occupy a residence maintained as the primary residence of the member at the time of the call or order, and owned by the member or for which the member was responsible for rental payments.

INCREASE IN BASIC ALLOWANCE FOR QUARTERS EFFECTIVE JANUARY 1, 1989

Pub. L. 100–456, div. A, title VI, §601(c), Sept. 29, 1988, 102 Stat. 1976, provided that the rates of basic allowance for quarters for members of the uniformed services were increased by 7 percent effective on Jan. 1, 1989, and authorized the President to allocate the increase among pay grades and dependency categories, and the Secretary of Defense to establish separate rates of basic allowance for quarters for commissioned officers credited with over four years of active service as enlisted members or warrant officers.

MINIMUM RATE OF QUARTERS ALLOWANCE SET AT RATE AS OF DECEMBER 31, 1984

Pub. L. 99–190, § 101(b) [title VIII, § 8088], Dec. 19, 1985, 99 Stat. 1185, 1216, provided that effective Jan. 1, 1985, the rate of the basic allowance for quarters authorized by subsec. (a) of this section which was payable to a member of the uniformed services who was entitled to that allowance on Dec. 31, 1984, was not to be less than the rate of the basic allowance for quarters that was in effect for that member on Dec. 31, 1984, with certain exceptions.

BASIC ALLOWANCE FOR QUARTERS AND VARIABLE HOUSING ALLOWANCE

Section 602(a) of Pub. L. 98–525, as amended by Pub. L. 99–661, div. A, title XIII, § 1341(a), Nov. 14, 1986, 100 Stat. 3990, revised, effective Jan. 1, 1985, the rates of the basic allowance for quarters authorized by subsec. (a)(1) of this section and provided that, during the period beginning on Jan. 1, 1985, and ending on the effective date of a change made by law in the rates of basic allowance for quarters that increased the rates for such allowance to a level not less than 7 percent greater than the rates in effect on Jan. 1, 1985, the rate of the basic allowance for quarters authorized by subsec. (a)(1) of this section which was payable to a member of the uniformed services who was entitled to that allowance during such period and who was entitled to that allowance on Dec. 31, 1984, was not to be less than the rate of the basic allowance for quarters that was in effect for that member on Dec. 31, 1984, with certain exceptions.

FREEZE OF VARIABLE HOUSING ALLOWANCE AT FISCAL YEAR 1983 RATES

Section 906 of Pub. L. 98–94, as amended by Pub. L. 98–525, title VI, § 602(b)(2), Oct. 19, 1984, 98 Stat. 2534, provided that during the period beginning on Oct. 1, 1983, and ending on Jan. 1, 1985, the rates at which the variable housing allowance under subsec. (a)(2) of this section was paid was to be the same as the rates in effect on Sept. 30, 1983.

VARIABLE HOUSING ALLOWANCE DURING FISCAL YEAR 1981; AMOUNT; REGULATIONS

Section 4(c) of Pub. L. 96–343 provided that during fiscal year 1981, a member of a uniformed service entitled to basic allowance for quarters under this section could be paid a variable housing allowance whenever assigned to duty in an area of the United States (other than Alaska and Hawaii) which was a high housing cost area with respect to such member, and a member with dependents who was assigned to an unaccompanied tour of duty outside the United States could be paid a variable housing allowance while serving such tour of duty for any period during which the member's dependents resided in an area of the United States which would qualify the member to receive a variable housing allowance if assigned to duty in that area.

PAY CONTINUATION

Amendment of this section by Pub. L. 92–129 not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92–129, set out as a note under section 203 of this title.

1962 INCREASE IN QUARTERS ALLOWANCE

Act Oct. 12, 1949, ch. 681, title III, § 302(f), 63 Stat. 812, as amended by Pub. L. 87–531, § 1, July 10, 1962, 76 Stat. 152, which had provided for increases in quarters allowances without amending subsec. (a) of this section through the device of effecting an amendment to section 302(f) of the Career Compensation Act of 1949, was repealed by section 75(5) of Pub. L. 89–718 except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966. The substance of these quarters allowance increases were incorporated into the text of this section through the amendment of subsec. (a) of this section by Pub. L. 89–718.

ENLISTED MEMBERS WITHOUT DEPENDENTS

Act Oct. 12, 1949, ch. 681, title III, 302(g), 63 Stat. 812, which provided that enlisted members without dependents shall be entitled to a basic allowance for quarters at the rate of $51.30 per month, was repealed by Pub. L. 87–531, § 2, July 10, 1962, 76 Stat. 152. Laws effective after Jan. 9, 1962, that are inconsistent with Pub. L. 87–649, to be considered as superseding Pub. L. 87–649 to the extent of the inconsistency, see section 12(a) of Pub. L. 87–649, set out as a note preceding section 101 of this title.

AUTHORITY OF SECRETARIES WITH RESPECT TO PAYMENT OF QUARTERS ALLOWANCES

Pub. L. 87–531, § 5, July 10, 1962, 76 Stat. 153, provided that: "The Secretaries of the departments concerned shall have the same authority with respect to payments of quarters allowances to enlisted members of the uniformed services to pay grades E–4 (over 4 years' service) through E–9 that they have with respect to enlisted members of the uniformed services in pay grades E–1, E–2, E–3, and E–4 (4 years' or less service) under sections 10 and 11 of the Dependents Assistance Act of 1950 (50 App. U.S.C. 2210, 2211)."

EXECUTIVE ORDER NO. 10204

Ex. Ord. No. 10204, Jan. 16, 1951, 16 F.R. 417, as amended by Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631; Ex. Ord. No. 11146, Mar. 13, 1964, 29 F.R. 3417, which related to regulations governing basic allowances for quarters, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, formerly set out as a note under section 301 of this title.

## [§ 403a. Repealed. Pub. L. 105–85, div. A, title VI, § 603(c)(1), Nov. 18, 1997, 111 Stat. 1781]

Section, added Pub. L. 98–525, title VI, § 602(d)(1), Oct. 19, 1984, 98 Stat. 2534; amended Pub. L. 99–145, title VI, §§ 602(a)–(d), 604(b), Nov. 8, 1985, 99 Stat. 636–638; Pub. L. 100–26, § 8(e)(8), Apr. 21, 1987, 101 Stat. 286; Pub. L. 101–189, div. A, title VI, § 602(a), Nov. 29, 1989, 103 Stat. 1445; Pub. L. 101–510, div. A, title VI, § 602, Nov. 5, 1990, 104 Stat. 1575; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title VI, §§ 603, 604(b), 633, Dec. 5, 1991, 105 Stat. 1373, 1374, 1381; Pub. L. 103–160, div. A, title VI, § 604, Nov. 30, 1993, 107 Stat. 1679; Pub. L. 104–106, div. A, title VI, § 605(a)(1), (b), Feb. 10, 1996, 110 Stat. 358; Pub. L. 104–201, div. A, title VI, §§ 604(d), 606(a)–(d), Sept. 23, 1996, 110 Stat. 2541, 2542, related to variable housing allowances.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as an Effective Date of 1997 Amendment note under section 5561 of Title 5, Government Organization and Employees.

## § 403b. Cost-of-living allowance in the continental United States

(a) PAYMENT AUTHORIZED.—The Secretary concerned may pay a cost-of-living allowance to the eligible members of a uniformed service under the jurisdiction of the Secretary.

(b) ELIGIBLE MEMBERS.—The following members are eligible to receive a cost-of-living allowance under this section:

(1) A member assigned to a high cost area in the continental United States.

(2) A member assigned to an unaccompanied tour of duty outside the continental United

States if the primary dependent of the member resides in a high cost area in the continental United States.

(3) A member assigned to duty in the continental United States if the Secretary of the uniformed service concerned determines that—

(A) the primary dependent of the member must reside in a high cost area in the continental United States by reason of the member's duty location or other circumstances; and

(B) it would be inequitable for the member's eligibility for the allowance to be determined on the basis of the duty location of the member.

(c) HIGH COST AREA DEFINED.—An area is a high cost area for a fiscal year for purposes of this section if the uniformed services cost of living for that area for the base period exceeds the average cost of living in the continental United States for such base period by at least the threshold percentage. The Secretary of Defense, in consultation with the other administering Secretaries, shall establish the threshold percentage, except that the threshold percentage may not be less than 8 percent. The administering Secretaries shall prescribe a higher threshold percentage to be applied for a fiscal year when it is necessary to do so in order to ensure that the total amount of the payments of the cost-of-living allowance made to members of the uniformed services under this section for such fiscal year does not exceed the total amount available to all uniformed services for that fiscal year for paying such allowance.

(d) AMOUNT OF ALLOWANCE.—The cost-of-living allowance that may be paid to a member for a high cost area for a fiscal year shall be the amount that is equal to the product of—

(1) the amount of the average spendable income determined applicable for the regular military compensation level of such member under subsection (g); and

(2) the percentage equal to the excess of—

(A) the percentage by which the uniformed services cost of living for the member's high cost area for the base period exceeds the average cost of living in the continental United States for such base period, over

(B) the threshold percentage applicable to such fiscal year under subsection (c).

(e) LIMITATION TO ONE ALLOWANCE.—If primary dependents of a member reside separately in different high cost areas—

(1) the member may be paid only one cost-of-living allowance under this section; and

(2) the cost-of-living allowance payable to the member shall be the highest of the amounts computed under this section for such high cost areas.

(f) SERVICE NOT COVERED.—(1) A cost-of-living allowance may not be paid a member under this section for the days authorized for travel of the member in connection with a permanent change of duty station.

(2) A member of a reserve component is not eligible for a cost-of-living allowance under this section unless the member is on active duty under a call or order to active duty that—

(A) specifies a period of 140 days or more; or

(B) states that the call or order to active duty is in support of a contingency operation.

(g) AVERAGE SPENDABLE INCOME.—The Secretary of Defense shall determine, using a methodology and assumptions that the Secretary considers appropriate, the amounts of average spendable income of members of the uniformed services for various ranges of regular military compensation. For purposes of this subsection, spendable income is the total amount of regular military compensation that is available for purchase of goods and services after allocation of amounts for taxes, insurance, housing, gifts and contributions, and savings.

(h) JOINT REGULATIONS.—The Secretary of Defense and the other administering Secretaries shall jointly prescribe regulations to carry out this section.

(i) OTHER DEFINITIONS.—In this section:

(1) The term ''primary dependent'', with respect to a member, means—

(A) the member's spouse; or

(B) in the case of an unmarried member, a dependent described in paragraph (2) or (4) of section 401(a) of this title.

(2) The term ''cost of living'' means a price index selected by the Secretary of Defense, in consultation with the other administering Secretaries, from among the following indices:

(A) The Consumer Price Index (all items–United States city average) published monthly by the Bureau of Labor Statistics.

(B) Any other index developed in the private sector that the Secretary of Defense, in consultation with the other administering Secretaries, determines is comparable to the Consumer Price Index and is appropriate for use for purposes of this section.

(3) The term ''uniformed services cost of living'' means the price index selected as described in paragraph (2) and adjusted as the Secretary of Defense, in consultation with the other administering Secretaries, considers appropriate to reflect variations between expenses of members of the uniformed services (as offset by the basic allowance for subsistence) and the corresponding expenses of persons not members of the uniformed services with regard to the following:

(A) Nonhousing costs (including costs of transportation, goods, and services, taking into consideration savings attributable to use of such military facilities as commissary stores and exchange stores).

(B) Average income tax paid.

(C) Cost of health care.

(4) The term ''base period'', with respect to a fiscal year, means the 12-month period ending on June 30 of the year in which such fiscal year begins.

(5) The term ''administering Secretaries'' means the following:

(A) The Secretary of Defense, with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy).

(B) The Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy.

(C) The Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

(D) The Secretary of Health and Human Services, with respect to the Public Health Service.

(Added Pub. L. 103–337, div. A, title VI, §602(a)(1), Oct. 5, 1994, 108 Stat. 2779; amended Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, §654(b)(2), Dec. 2, 2002, 116 Stat. 2582.)

AMENDMENTS

2002—Subsec. (i)(5)(B). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (i)(6). Pub. L. 107–314 struck out par. (6) which read as follows: ''The term 'continental United States' means the 48 contiguous States and the District of Columbia.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

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), 551(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.

CONDITIONS ON PROVISION OF ALLOWANCE

Section 602(b) of Pub. L. 103–337 provided that:

''(1) A cost-of-living allowance under section 403b of title 37, United States Code, as added by subsection (a), may not be provided until after the end of the 90-day period beginning on the date the Secretary of Defense submits the report required under paragraph (2).

''(2) Before implementing section 403b of title 37, United States Code, the Secretary of Defense, in consultation with the other administering Secretaries (as defined in subsection (h)(6) [probably should be (i)(5)] of such section), shall submit to Congress a report describing—

''(A) the methods by which the Secretary of Defense would determine the price index to be used under such section and the types of nonhousing related costs that will be considered under such price index;

''(B) the manner by which the Secretary will establish the threshold percentage for purposes of such section;

''(C) the manner in which savings attributable to use of such military facilities as commissary stores, exchange stores, and military medical treatment facilities will be taken into consideration; and

''(D) the methods by which the Secretary proposes to prevent uncontrolled growth in Government expenditures through the cost-of-living allowance available under such section.''

[Report submitted by Secretary of Defense on Mar. 31, 1995.]

## §404. Travel and transportation allowances: general

(a) Except as provided in subsection (f) and under regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel performed or to be performed under orders, without regard to the comparative costs of the various modes of transportation—

(1) upon a change of permanent station, or otherwise, or when away from his designated post of duty regardless of the length of time he is away from that post;

(2) upon appointment, call to active duty, enlistment, or induction, from his home or from the place from which called or ordered to active duty to his first station;

(3) upon separation from the service, placement on the temporary disability retired list, release from active duty, or retirement, from his last duty station to his home or the place from which he was called or ordered to active duty, whether or not he is or will be a member of a uniformed service at the time the travel is or will be performed;

(4) when away from home to perform duty, including duty by a member of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, in his status as a member of the National Guard, for which he is entitled to, or has waived, pay under this title; and

(5) when not on active duty, if assigned to a Reserve school, and attending a reserve training meeting for the purpose of performing duties as an instructor at such meeting, if such meeting is 100 or more miles from the site at which the member would attend paid drills of the Reserve school to which he is assigned.

(b)(1) The Secretaries concerned may prescribe—

(A) the conditions under which travel and transportation allowances are authorized, including advance payments thereof; and

(B) the allowances for the kinds of travel, but not more than the amounts authorized in this section.

(2) In prescribing such conditions and allowances, the Secretaries concerned shall provide that a member who is performing travel under orders away from his designated post of duty and who is authorized a per diem under clause (2) of subsection (d) shall be paid for the meals portion of that per diem in a cash amount at a rate that is not less than the rate established under section 1011(a) of this title for meals sold to members. The preceding sentence shall not apply with respect to a member on field duty or sea duty (as defined in regulations prescribed under section 403(f)(3) of this title) or a member of a unit with respect to which the Secretary concerned has determined that unit messing is essential to the accomplishment of the unit's training and readiness.

(c)(1) Under uniform regulations prescribed by the Secretaries concerned and as provided in paragraph (2), a member who—

(A) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(B) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein or more than 90 days, is discharged with separation pay or severance pay or is in-

voluntarily released from active duty with separation pay or readjustment pay; or

(C) is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, 2001,

may, not later than one year from the date he is so retired, placed on that list, involuntarily separated, discharged, or released, except as prescribed in regulations by the Secretaries concerned, select his home for the purposes of the travel and transportation allowances authorized by subsection (a).

(2) A member authorized under paragraph (1) to select a home for the purposes of such allowances may select as his home—

(A) any place within the United States;

(B) the place outside the United States from which the member was called or ordered to active duty to his first duty station; or

(C) any other place.

However, if the member selects as his home a place other than a place described in clause (A) or (B) of the preceding sentence, the travel and transportation allowances authorized by subsection (a) may not exceed the allowances which would be payable if the place selected as his home were in the United States (other than Hawaii or Alaska).

(d)(1) The travel and transportation allowances authorized for each kind of travel may not be more than one of the following:

(A) Transportation in kind, reimbursement therefor, or, under regulations prescribed by the Secretaries concerned, when travel by privately owned conveyance is authorized or approved as more advantageous to the Government, a monetary allowance in place of the cost of transportation, at the rates provided in section 5704 of title 5.

(B) Transportation in kind, reimbursement therefor, or a monetary allowance as provided in subparagraph (A), plus a payment in lieu of subsistence as provided in paragraph (2) in an amount sufficient to meet normal and necessary expenses in the area to which travel is performed.

(C) A mileage allowance at a rate per mile prescribed by the Secretaries concerned and based on distances established under subparagraph (A).

(2) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) is entitled to any of the following:

(A) A per diem allowance at a rate not to exceed that established by the Secretaries concerned.

(B) Reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Secretaries concerned.

(C) A combination of payments described in subparagraphs (A) and (B).

(3) A per diem allowance or maximum amount of reimbursement established for purposes of paragraph (2) shall be established, to the extent feasible, by locality.

(4) For travel consuming less than a full day, the payment prescribed by regulation under paragraph (2) shall be allocated in such manner as the Secretaries concerned prescribe.

(5) Effective January 1, 2003, the per diem rates established under paragraph (2)(A) for travel performed in connection with a change of permanent station or for travel described in paragraph (2) or (3) of subsection (a) shall be equal to the standard per diem rates established in the Federal travel regulation for travel within the continental United States of civilian employees and their dependents, unless the Secretaries concerned determine that a higher rate for members is more appropriate.

(e) A member who is on duty with, or is undergoing training for, the Air Mobility Command, the Marine Corps Transport Squadrons, the Fleet Tactical Support Squadrons, the Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons, and who is away from his permanent station, may be paid a per diem in lieu of subsistence in an amount not more than the amount to which he would be entitled if he were performing travel in connection with temporary duty without, in either case, the issuance of orders for specific travel.

(f)(1) The travel and transportation allowances authorized under this section for a member who is separated from the service or released from active duty may be paid or provided only for travel actually performed.

(2)(A) Except as provided in subparagraph (B), a member who is separated from the service or released from active duty and who—

(i) on the date of his separation from the service or release from active duty, has not served on active duty for a period of time equal to at least 90 percent of the period of time for which he initially enlisted or otherwise initially agreed to serve; or

(ii) is separated from the service or released from active duty under other than honorable conditions, as determined by the Secretary concerned;

may be provided travel and transportation under this section only by transportation in kind by the least expensive mode of transportation available or by a monetary allowance that does not exceed the cost to the Government of such transportation in kind.

(B) Subparagraph (A) does not apply to a member—

(i) who is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(ii) who is separated from the service or released from active duty for a medical condition affecting the member, as determined by the Secretary concerned;

(iii) who is separated from the service or released from active duty because the period of time for which the member initially enlisted or otherwise initially agreed to serve has been reduced by the Secretary concerned and is separated or released under honorable conditions;

(iv) who is discharged under section 1173 of title 10; or

(v) who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, 2001.

(3) For purposes of entitlement to per diem in place of subsistence under subsection (d)(2), a member shall not be considered under subsection (a)(1) to be performing travel under orders away from his designated post of duty if such member—

(A) is an enlisted member serving his first tour of active duty;

(B) has not actually reported to a permanent duty station pursuant to orders directing such assignment; and

(C) is not actually traveling between stations pursuant to orders directing a change of station.

(g)(1) Subject to paragraph (2), a member of the armed forces accompanying a Member of Congress or a congressional employee on official travel may be authorized reimbursement for actual travel and transportation expenses incurred for such travel.

(2) The reimbursement authorized in paragraph (1) may be paid—

(A) at a rate that does not exceed the rate approved for official congressional travel; and

(B) only when the travel of the member is directed or approved by the Secretary of Defense or the Secretary concerned.

(3) In this subsection:

(A) The term ''Member of Congress'' means a member of the Senate or the House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

(B) The term ''congressional employee'' means an employee of a Member of Congress or an employee of Congress.

(h) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) is entitled to reimbursement for parking fees, ferry fares, and bridge, road, and tunnel tolls actually incurred incident to such travel.

(i)(1) In the case of a member of a reserve component performing active duty for training or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a), the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty. If transient government housing is unavailable or inadequate, the Secretary concerned may provide the member with lodging in kind in the same manner as members entitled to such allowances under subsection (a).

(2) Any payment or other benefit under this subsection shall be provided in accordance with regulations prescribed by the Secretaries concerned.

(3) The Secretary may pay service charge expenses under paragraph (1) and expenses of providing lodging in kind under such paragraph out of funds appropriated for operation and maintenance for the reserve component concerned. Use of Government charge cards is authorized for payment of these expenses.

(4) Decisions regarding the availability or adequacy of government housing at a military installation under paragraph (1) shall be made by the installation commander.

(j) In this section, the term ''involuntarily separated'' has the meaning given that term in section 1141 of title 10.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 472; Pub. L. 89–680, §1(1), Oct. 15, 1966, 80 Stat. 957; Pub. L. 89–718, §§55, 56, Nov. 2, 1966, 80 Stat. 1122, 1123; Pub. L. 90–168, §3, Dec. 1, 1967, 81 Stat. 525; Pub. L. 91–183, Dec. 30, 1969, 83 Stat. 840; Pub. L. 94–296, §1, May 29, 1976, 90 Stat. 584; Pub. L. 96–342, title VIII, §807(a), Sept. 8, 1980, 94 Stat. 1096; Pub. L. 96–343, §5(a), Sept. 8, 1980, 94 Stat. 1126; Pub. L. 97–60, title I, §121(a), Oct. 14, 1981, 95 Stat. 999; Pub. L. 98–94, title IX, §908(b), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98–525, title V, §533(g), title VI, §613(a), title XIV, §1402(c), Oct. 19, 1984, 98 Stat. 2528, 2539, 2621; Pub. L. 99–145, title VI, §612(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99–500, §101(c) [title IX, §9073], Oct. 18, 1986, 100 Stat. 1783–82, 1783–113, and Pub. L. 99–591, §101(c) [title IX, §9073], Oct. 30, 1986, 100 Stat. 3341–82, 3341–113; Pub. L. 99–661, div. A, title VI, §614(a), title XIII, §1343(b)(2), Nov. 14, 1986, 100 Stat. 3879, 3995; Pub. L. 100–26, §8(a), (d)(6), Apr. 21, 1987, 101 Stat. 284, 285; Pub. L. 100–180, div. A, title VI, §617(a), Dec. 4, 1987, 101 Stat. 1096; Pub. L. 101–189, div. A, title VI, §621(a), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 101–510, div. A, title V, §503(a), Nov. 5, 1990, 104 Stat. 1558; Pub. L. 102–25, title VII, §702(b)(1)–(3), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title VI, §624, Oct. 23, 1992, 106 Stat. 2423; Pub. L. 103–160, div. A, title V, §561(*l*)(1), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103–337, div. A, title VI, §§621, 622, Oct. 5, 1994, 108 Stat. 2784; Pub. L. 104–106, div. A, title VI, §621, Feb. 10, 1996, 110 Stat. 363; Pub. L. 104–201, div. A, title XII, §1252, Sept. 23, 1996, 110 Stat. 2698; Pub. L. 105–85, div. A, title VI, §602(b)(1), Nov. 18, 1997, 111 Stat. 1772; Pub. L. 105–261, div. A, title V, §561(f), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106–65, div. A, title VI, §631, Oct. 5, 1999, 113 Stat. 661; Pub. L. 106–398, §1 [[div. A], title V, §571(f), title X, §1087(b)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134, 1654A–292; Pub. L. 107–107, div. A, title VI, §631, Dec. 28, 2001, 115 Stat. 1143.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 404(a) ..... | 37:253(a) (1st and 3d sentences). | Oct. 12, 1949, ch. 681, §303(a), (d), 63 Stat. 813, 815; Mar. 31, 1955, ch. 20, §2(11), 69 Stat. 21; Aug. 11, 1955, ch. 806, §1, 69 Stat. 691; June 13, 1956, ch. 383, 70 Stat. 275; July 12, 1960, Pub. L. 86–638, §1, 74 Stat. 471. |
| 404(b) ..... | 37:253(a) (4th sentence). | |
| 404(c) ..... | 37:253(a) (2d sentence). | |
| 404(d) ..... | 37:253(a) (last sentence, less proviso). | |
| 404(e) ..... | 37:253(d). | |
| 404(f) ..... | 37:253(a) (proviso of last sentence). | |

In subsection (a), the words ''that post'' are substituted for the words ''such designated posts of duty''. In clauses (2) and (3), the words ''called or'' are inserted to conform to the second phrase of clause (2). The word ''competent'' is omitted as surplusage.

In subsection (b), the words ''The Secretaries concerned'' are substituted for the words ''The respective Secretaries concerned'' to conform to other subsections of the source statute.

In subsection (c)(1), the words ''under chapter 61 of title 10'' are inserted for clarity. In clause (2), the words ''under any other law'' are substituted for the words ''for any other reason''.

In subsection (d), the words ''may not be more than one of the following'' are substituted for the words ''shall be limited to one of the following''. The words ''or to be established'' and ''existing'' are omitted, since this section, being permanent law, is consistently applicable in the present and does not speak only as of the date of its enactment. The words ''of the Army'' are substituted for the words ''Department of the Army'' after the words ''Chief of Finance'' to conform to section 3036(a)(5) of title 10. The words ''under clause (1) of this subsection'' are substituted for the words ''pursuant to existing law''.

In subsection (e), the words ''Fleet Logistic Air Wings'' are substituted for the words ''Fleet Logistics Support Unit'' to reflect present terminology.

In subsection (f), the words ''under this section'' are substituted for the words ''under conditions authorized herein''. The words ''on the member's'' are inserted for clarity.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Amendment of section by Pub. L. 99–500 and Pub. L. 99–591 is based on section 615(a) of S. 2638, Ninety-ninth Congress, as passed by the Senate on Aug. 9, 1986, which was enacted into permanent law by Pub. L. 99–500 and Pub. L. 99–591. S. 2638 was subsequently enacted as Pub. L. 99–661.

PRIOR PROVISIONS

Provisions similar to those in subsec. (g) of this section were contained in the following appropriations acts:

Oct. 12, 1984, Pub. L. 98–473, title I, § 101(h) [title VIII, § 8053], 98 Stat. 1904, 1933.

Dec. 8, 1983, Pub. L. 98–212, title VII, § 761, 97 Stat. 1449.

Dec. 21, 1982, Pub. L. 97–377, title I, § 101(c) [title VII, § 767], 96 Stat. 1833, 1861.

Dec. 29, 1981, Pub. L. 97–114, title VII, § 771, 95 Stat. 1590.

AMENDMENTS

2001—Subsec. (d)(5). Pub. L. 107–107 added par. (5).

2000—Subsec. (b)(2). Pub. L. 106–398, § 1 [[div. A], title X, § 1087(b)(3)], substituted ''section 403(f)(3)'' for ''section 402(e)''.

Subsecs. (c)(1)(C), (f)(2)(B)(v). Pub. L. 106–398, § 1 [[div. A], title V, § 571(f)], substituted ''December 31, 2001'' for ''September 30, 2001''.

1999—Subsec. (i)(1). Pub. L. 106–65, § 631(a), inserted at end ''If transient government housing is unavailable or inadequate, the Secretary concerned may provide the member with lodging in kind in the same manner as members entitled to such allowances under subsection (a).''

Subsec. (i)(3). Pub. L. 106–65, § 631(b), inserted ''and expenses of providing lodging in kind under such paragraph'' after ''paragraph (1)'' and ''Use of Government charge cards is authorized for payment of these expenses.'' at end.

Subsec. (i)(4). Pub. L. 106–65, § 631(c), added par. (4).

1998—Subsecs. (c)(1)(C), (f)(2)(B)(v). Pub. L. 105–261 substituted ''during the period beginning on October 1, 1990, and ending on September 30, 2001'' for ''during the nine-year period beginning on October 1, 1990''.

1997—Subsecs. (g) to (k). Pub. L. 105–85 redesignated subsecs. (h) to (k) as (g) to (j), respectively, and struck out former subsec. (g) which read as follows: ''In the case of an enlisted member who is in a travel status and not entitled to receive per diem in lieu of subsistence for any day (or portion of a day) because the member is furnished meals in a Government mess, the member may not be paid a basic allowance for subsistence for such day (or portion of such day) that the member is furnished meals in a Government mess.''

1996—Subsec. (d)(1)(A). Pub. L. 104–106 struck out '', based on distances established over the shortest usually traveled route, under mileage tables prepared under the direction of the Secretary of Defense'' after ''section 5704 of title 5''.

Subsec. (j)(1). Pub. L. 104–201 substituted ''active duty for training'' for ''annual training duty''.

1994—Subsec. (d)(1)(A). Pub. L. 103–337, § 621, substituted ''Secretary of Defense'' for ''Secretary of the Army''.

Subsecs. (j), (k). Pub. L. 103–337, § 622, added subsec. (j) and redesignated former subsec. (j) as (k).

1993—Subsecs. (c)(1)(C), (f)(2)(B)(v). Pub. L. 103–160 substituted ''nine-year period'' for ''five-year period''.

1992—Subsec. (e). Pub. L. 102–484 substituted ''Air Mobility Command'' for ''Military Airlift Command'' and ''the Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons,'' for ''or the Naval Aircraft Ferrying Squadrons,''.

1991—Pub. L. 102–25 struck out ''of this section'', ''of this subsection'', and ''of this paragraph'' wherever appearing in subsecs. (a) to (d) and (f).

1990—Subsec. (c)(1). Pub. L. 101–510, § 503(a)(1), added subpar. (C) and inserted ''involuntarily separated,'' after ''placed on that list,'' in concluding provisions.

Subsec. (f)(2)(B)(v). Pub. L. 101–510, § 503(a)(2), added cl. (v).

Subsec. (j). Pub. L. 101–510, § 503(a)(3), added subsec. (j).

1989—Subsec. (i). Pub. L. 101–189 added subsec. (i).

1987—Subsec. (d). Pub. L. 100–26, § 8(a), terminated amendments by Pub. L. 99–500 and Pub. L. 99–591. See Termination of Amendments by Public Laws 99–500 and 99–591 note below.

Subsec. (d)(1)(A). Pub. L. 100–26, § 8(d)(6), substituted ''privately owned'' for ''privately-owned''.

Subsec. (h). Pub. L. 100–180 added subsec. (h).

1986—Subsec. (d). Pub. L. 99–500 and Pub. L. 99–591 substituted ''Subject to paragraph (2), transportation'' for ''Transportation'' in par. (1)(B) and ''subparagraph (A) of this paragraph'' for ''clause (1) of this subsection'' in par. (1)(C) and added pars. (2), (4), and (5), and redesignated former par. (2) as (3) and substituted ''Except as provided in paragraph (4) of this subsection and under'' for ''Under''. See Termination of Amendments by Public Laws 99–500 and 99–591 note below.

Subsec. (d)(1)(B). Pub. L. 99–661, § 614(a)(1), (2), substituted ''payment in lieu of subsistence as provided in paragraph (2) of this subsection in an amount sufficient'' for ''per diem in place of subsistence in an amount not more than $50 determined by the Secretaries concerned to be sufficient'' and struck out ''to be'' after ''travel is''.

Subsec. (d)(1)(C). Pub. L. 99–661, § 1343(b)(2), substituted ''subparagraph (A) of this paragraph'' for ''clause (1) of this subsection''.

Subsec. (d)(2) to (4). Pub. L. 99–661, § 614(a)(3), added pars. (2) to (4) and struck out former par. (2) which read as follows: ''Under regulations prescribed by the Secretaries concerned, when either travel is to an area designated as a high cost area in those regulations or the per diem of paragraph (1)(B) of this subsection is less than the amount of the actual and necessary expenses required by the unusual circumstances of the travel assignment, reimbursement may be authorized for actual and necessary expenses, but not for more than $75 for each day in a travel status.''

1985—Subsec. (d). Pub. L. 99–145 substituted par. (1) for first sentence, designated second sentence as par. (2), and in par. (2) substituted ''paragraph (1)(B)'' for ''clause (2)''. Prior to amendment, first sentence read

as follows: ''The travel and transportation allowances authorized for each kind of travel may not be more than one of the following—

''(1) transportation in kind, reimbursement therefor, or a monetary allowance in place of the cost of transportation at a rate per mile prescribed by the Secretaries concerned and based on distances established, over the shortest usually traveled route, under mileage tables prepared under the direction of the Secretary of the Army;

''(2) transportation in kind, reimbursement therefor, or a monetary allowance as provided by clause (1) of this subsection plus a per diem in place of subsistence in an amount sufficient to meet actual and necessary expenses, but in no event more than $50 a day; or

''(3) a mileage allowance at a rate per mile prescribed by the Secretaries concerned and based on distances established under clause (1) of this subsection.''

1984—Subsec. (a)(5). Pub. L. 98–525, §613(a), added par. (5).

Subsec. (c)(1)(B). Pub. L. 98–525, §533(g), inserted ''separation pay or'' before ''severance pay'' and before ''readjustment pay''.

Subsec. (g). Pub. L. 98–525, §1402(c), added subsec. (g).

1983—Subsec. (f)(3). Pub. L. 98–94 added par. (3).

1981—Subsec. (a). Pub. L. 97–60, §121(a)(1), substituted ''Except as provided in subsection (f) of this section and under regulations'' for ''Under regulations''.

Subsec. (b). Pub. L. 97–60, §121(a)(2), designated existing provisions as par. (1), redesignated existing pars. (1) and (2) as subpars. (A) and (B) of the newly designated par. (1), and added par. (2).

Subsec. (c). Pub. L. 97–60, §121(a)(3), designated existing provisions as par. (1) and existing pars. (1) and (2) as subpars. (A) and (B) of the newly designated par. (1), inserted ''and as provided in paragraph (2) of this subsection'' after ''Secretaries concerned'' in provisions preceding newly designated subpar. (A), and added par. (2).

Subsec. (f). Pub. L. 97–60, §121(a)(4), designated existing provisions as par. (1), substituted ''for a member who is separated from the service or released from active duty may be paid or provided only for travel actually performed'' for ''may be paid on the member's separation from the service or release from active duty, whether or not he performs the travel involved'' in par. (1) as so designated, and added par. (2).

1980—Subsec. (d). Pub. L. 96–343, §5(a), substituted in par. (1) ''per mile prescribed by the Secretaries concerned and'' for ''that is not more than 7 cents a mile'', and in par. (3) ''at a rate per mile prescribed by the Secretaries concerned and'' for ''of not more than 10 cents a mile''.

Pub. L. 96–342 substituted in par. (2) ''$50'' for ''$35'' and in provision following par. (3) ''$75'' for ''$50''.

1976—Subsec. (d). Pub. L. 94–296 in cl. (2) substituted ''in an amount sufficient to meet actual and necessary expenses, but in no event more than $35 a day'' for ''of not more than $25 a day'', and in text following cl. (3) inserted provisions relating to travel designated as travel to a high cost area by the prescribed regulations and increased the maximum reimbursement from $40 to $50.

1969—Pub. L. 91–183 increased from $16 to $25, the maximum per diem allowance, and from $30 to $40, the maximum per diem allowance in unusual circumstances.

1967—Subsec. (a)(4). Pub. L. 90–168 added cl. (4).

1966—Subsec. (c). Pub. L. 89–680 inserted into the authorization for selection of a home for the purposes of the travel and transportation allowances authorized by subsection (a) of this section provisions requiring selection not later than one year from the date of retirement, placement, discharge, or release, except as provided in regulations to be prescribed by the Secretaries concerned.

Subsec. (d). Pub. L. 89–718, §55, struck out reference to the Chief of Finance of the Army in cl. (1), substituted ''subsection'' for ''section'' and ''$16'' for ''$12'' in cl. (2), substituted ''subsection'' for ''section'' in cl. (3), and inserted provision authorizing reimbursement on an actual expenses basis where, due to unusual circumstances of a travel assignment, per diem reimbursement is not enough, but placing a limit of $30 for each day in a travel status.

Subsec. (e). Pub. L. 89–718, §56, substituted ''Military Airlift Command'' for ''Military Air Transport Service''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 602(g) of Pub. L. 105–85, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 621(b) of Pub. L. 101–189 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to travel and transportation commenced after the date of the enactment of this Act [Nov. 29, 1989].''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–180 applicable with respect to travel performed after Dec. 4, 1987, see section 617(c) of Pub. L. 100–180, set out as an Effective Date note under section 1591 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1986 AMENDMENTS

Section 612(b)(1) of Pub. L. 100–180 provided that: ''The amendments made by section 614(a) of the National Defense Authorization Act for Fiscal Year 1987 [section 614(a) of Pub. L. 99–661, which amended this section] shall be implemented by the Secretaries concerned (as defined in section 101(5) of title 37, United States Code) not later than 90 days after the date of the enactment of this Act [Dec. 4, 1987] and shall apply with respect to travel performed on or after the date of implementation.''

Section 614(b) of Pub. L. 99–661, which provided that amendments made by section 614(a) of Pub. L. 99–661 shall become effective on such date as the President makes a certification regarding savings to the United States by such amendments, was repealed by Pub. L. 100–180, div. A, title VI, §612(a), Dec. 4, 1987, 101 Stat. 1093.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 612(c) of Pub. L. 99–145 provided that: ''The amendments made by this section [amending this section and section 406 of this title] shall apply to travel performed after September 30, 1985.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 613(b) of Pub. L. 98–525 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to travel performed after September 30, 1984.''

Amendment by section 1402(c) of Pub. L. 98–525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as a note under section 520b of Title 10, Armed Forces.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 121(d) of Pub. L. 97–60 provided that:

''(1) Except as provided in paragraphs (2), (3), (4), and (5), the amendments made by this section [amending this section and sections 405a and 406 of this title] shall take effect on November 1, 1981, and shall apply to members who are separated from the service or released from active duty on or after November 1, 1981.

''(2) Paragraph (2) of section 404(b) of title 37, United States Code, as added by subsection (a)(2)(C), shall apply to travel performed after October 31, 1981.

''(3) Paragraph (3) of section 406(a) of title 37, United States Code, as added by subsection (b)(1)(C), shall take

effect on the date of the enactment of this Act [Oct. 14, 1981].

''(4) The amendments made by subsections (a)(3) and (b)(3) [amending this section and section 406 of this title] shall take effect on November 1, 1981, and shall apply to members who are retired, placed on the temporary disability retired list, discharged, or involuntarily released on or after November 1, 1981, except that such amendments shall not apply to any member who before November 1, 1981, had completed eighteen years of active service.

''(5) The amendment made by subsection (b)(2)(C) [amending section 406 of this title] shall take effect on the date of the enactment of this Act [Oct. 14, 1981].''

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 5(c) of Pub. L. 96–343 provided that: ''The amendments made by this section [amending this section and section 411 of this title] shall be effective with respect to travel and transportation performed after August 31, 1980.''

Section 807(b) of Pub. L. 96–342 provided that: ''The amendments made by subsection (a) [amending this section] shall only apply to travel and transportation expenses incurred after September 30, 1980.''

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2 of Pub. L. 94–296 provided that: ''The amendments made by this Act [amending this section] become effective on the first day of the first calendar month following the date of enactment [May 29, 1976].''

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–168 effective on first day of first calendar month following Dec. 1, 1967, see section 7 of Pub. L. 90–168, set out as a note under section 138 of Title 10, Armed Forces.

TERMINATION OF AMENDMENTS BY PUBLIC LAWS 99–500 AND 99–591

Section 8(a) of Pub. L. 100–26, as amended by Pub. L. 100–180, div. A, title VI, § 612(b)(2), Dec. 4, 1987, 101 Stat. 1093, provided that: ''The amendments made to section 404(d) of title 37, United States Code, by section 614(a) of the Defense Authorization Act [section 614(a) of Pub. L. 99–661] shall be executed as if that portion of section 9073 of the Defense Appropriations Act [section 101(c) [title IX, § 9073] of Pub. L. 99–500 and Pub. L. 99–591, enacting S.2638, § 615, which amended subsec. (d) of this section and enacted a provision set out as a note under this section] which is before the proviso had not been enacted. Such portion of section 9073 which is before the proviso shall not be in effect after the date of the enactment of this Act [Apr. 21, 1987], and the reference to 'this section' in such proviso shall be deemed to refer to section 614 of the Defense Authorization Act.''

TRANSMISSION OF CERTIFICATION OF TRAVEL AND TRANSPORTATION ALLOWANCES TO CONGRESS WITH RESPECT TO FISCAL YEAR 1987

Section 615(b) of S. 2638, as passed by the Senate on Aug. 9, 1986, and as enacted into law by section 101(c) [title IX, § 9073] of Pub. L. 99–500 and Pub. L. 99–591, related to transmission to Congress by Secretary of Defense of certification of costs of travel and transportation allowances for fiscal year 1987. See Termination of Amendments by Public Laws 99–500 and 99–591 note above.

INCREASE IN RATE PER MILE FOR MILEAGE ALLOWANCE

Pub. L. 98–473, title I, § 101(h) [title VIII, § 8113], Oct. 12, 1984, 98 Stat. 1904, 1944, provided that: ''The Secretaries concerned (as defined in section 101(5) of title 37, United States Code), under uniform regulations prescribed by them and to the extent that funds are available within the permanent change of station travel account, may increase the rate per mile for mileage allowance under section 404(d)(2) of title 37, United States Code, to 15 cents per mile.''

1962 INCREASE IN PER DIEM RATES; REIMBURSEMENT FOR ACTUAL EXPENSES INCIDENT TO TRAVEL

The increase from $12 to $16 in the per diem allowance and the provision for reimbursement for actual expenses incident to travel up to $30 per day provided in the amendment of subsec. (d) of this section by Pub. L. 89–718 had already been put into effect by Pub. L. 87–500, §§ 1, 2, June 27, 1962, 76 Stat. 111, which although not amending subsec. (d) of this section, had raised the per diem allowance and provided for the reimbursement for actual expenses up to $30 per day through the device of effecting an amendment to section 303(a) of the Career Compensation Act of 1949, act Oct. 12, 1949, ch. 681, title III, 63 Stat. 813. Pub. L. 89–500 was repealed by section 75(3) of Pub. L. 89–718, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966.

## § 404a. Travel and transportation allowances: temporary lodging expenses

(a) PAYMENT OR REIMBURSEMENT OF SUBSISTENCE EXPENSES.—(1) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service who is ordered to make a change of permanent station described in paragraph (2) shall be paid or reimbursed for subsistence expenses of the member and the member's dependents for the period (subject to subsection (c)) for which the member and dependents occupy temporary quarters incident to that change of permanent station.

(2) Paragraph (1) applies to the following:

(A) A permanent change of station from any duty station to a duty station in the United States (other than Hawaii or Alaska).

(B) A permanent change of station from a duty station in the United States (other than Hawaii or Alaska) to a duty station outside the United States or in Hawaii or Alaska.

(C) In the case of a member who is reporting to the member's first permanent duty station, the change from the member's home of record or initial technical school to that first permanent duty station.

(b) PAYMENT IN ADVANCE.—The Secretary concerned may make any payment for subsistence expenses to a member under this section in advance of the member actually incurring the expenses. The amount of an advance payment made to a member shall be computed on the basis of the Secretary's determination of the average number of days that members and their dependents occupy temporary quarters under the circumstances applicable to the member and the member's dependents.

(c) MAXIMUM PAYMENT PERIOD.—(1) In the case of a change of permanent station described in subparagraph (A) or (C) of subsection (a)(2), the period for which subsistence expenses are to be paid or reimbursed under this section may not exceed 10 days.

(2) In the case of a change of permanent station described in subsection (a)(2)(B)—

(A) the period for which such expenses are to be paid or reimbursed under this section may not exceed five days; and

(B) such payment or reimbursement may be provided only for expenses incurred before

leaving the United States (other than Hawaii or Alaska).

(3) Whenever the conditions described in clause (i) or (ii) of subparagraph (A) of section 403(b)(7) of this title exist for a military housing area or portion thereof, the Secretary concerned may increase the period for which subsistence expenses are to be paid or reimbursed under this section in the case of a change of permanent station described in subparagraph (A) or (C) of subsection (a)(2) in the same military housing area or portion thereof to a maximum of 60 days.

(d) DAILY SUBSISTENCE RATES.—Regulations prescribed under subsection (a) shall prescribe average daily subsistence rates for purposes of this section for the member and for each dependent. Such rates may not exceed the maximum per diem rates prescribed under section 404(d) of this title for the area where the temporary quarters are located.

(e) MAXIMUM DAILY PAYMENT.—A member may not be paid or reimbursed more than $290 a day under this section.

(Added Pub. L. 97–60, title I, § 122(a)(1), Oct. 14, 1981, 95 Stat. 1002; amended Pub. L. 99–145, title VI, § 613(a), Nov. 8, 1985, 99 Stat. 640; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title VI, § 621, Oct. 23, 1992, 106 Stat. 2422; Pub. L. 103–160, div. A, title VI, § 621(a), (b), Nov. 30, 1993, 107 Stat. 1682; Pub. L. 106–65, div. A, title VI, § 632, Oct. 5, 1999, 113 Stat. 661; Pub. L. 106–398, § 1 [[div. A], title VI, § 641(a), (c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–159, 1654A–161; Pub. L. 107–107, div. A, title VI, § 632(a), (b), Dec. 28, 2001, 115 Stat. 1144; Pub. L. 109–163, div. A, title VI, § 609(b), Jan. 6, 2006, 119 Stat. 3290; Pub. L. 110–181, div. A, title VI, § 603(a), Jan. 28, 2008, 122 Stat. 145; Pub. L. 110–417, [div. A], title VI, § 603, Oct. 14, 2008, 122 Stat. 4483.)

AMENDMENTS

2008—Subsec. (c)(3). Pub. L. 110–181 substituted ''60 days'' for ''20 days''.

Subsec. (e). Pub. L. 110–417 substituted ''$290 a day'' for ''$180 a day''.

2006—Subsec. (c)(3). Pub. L. 109–163 added par. (3).

2001—Subsec. (a)(2)(C). Pub. L. 107–107, § 632(a), substituted ''a member who'' for ''an enlisted member who''.

Subsec. (e). Pub. L. 107–107, § 632(b), substituted ''$180'' for ''$110''.

2000—Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title VI, § 641(a)(2)], added subsec. (a) and struck out former subsec. (a) which provided that a member of a uniformed service who was ordered to make certain changes of permanent station was to be paid or reimbursed for subsistence expenses actually incurred by the member and the member's dependents while occupying temporary quarters.

Subsec. (b). Pub. L. 106–398, § 1 [[div. A], title VI, § 641(a)(2)], added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 106–398, § 1 [[div. A], title VI, § 641(a)(2)], added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 106–398, § 1 [[div. A], title VI, § 641(a)(1), (c)(1)], redesignated subsec. (b) as (d) and inserted heading.

Subsec. (e). Pub. L. 106–398, § 1 [[div. A], title VI, § 641(a)(1), (c)(2)], redesignated subsec. (c) as (e) and inserted heading.

1999—Subsec. (a). Pub. L. 106–65 added par. (3) and substituted ''paragraph (1) or (3)'' for ''clause (1)'' and ''paragraph (2)'' for ''clause (2)'' in concluding provisions.

1993—Subsec. (a). Pub. L. 103–160, § 621(a), substituted ''10 days'' for ''four days'' in second sentence and ''five days'' for ''two days'' in third sentence.

Subsec. (d). Pub. L. 103–160, § 621(b), struck out subsec. (d) which read as follows: ''In the case of a member who is ordered to make a change of permanent station described in subsection (a)(1) during fiscal years 1993 through 1997, the Secretary concerned may extend the period for which subsistence expenses incurred incident to that change are paid or reimbursed to not more than 10 days if the new duty station is in a geographical area where there is a shortage of safe and affordable housing because of the arrival of members of the armed forces in the area as part of the withdrawal of members of the armed forces from duty stations outside the United States, the closure or realignment of military installations, or the restructuring or deactivation of military units. The existence of such a shortage of safe and affordable housing in an area shall be determined by the Secretary concerned.''

1992—Subsec. (d). Pub. L. 102–484 added subsec. (d).

1991—Subsec. (a). Pub. L. 102–25, § 702(b)(2), struck out ''of this subsection'' after ''clause (1)'' and ''clause (2)''.

Subsec. (b). Pub. L. 102–25, § 702(b)(1), struck out ''of this section'' after ''subsection (a)''.

1985—Subsec. (a). Pub. L. 99–145 substituted ''shall'' for ''may'' in first sentence, and substituted ''are to'' for ''may'' the first place it appears in second and third sentences.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–163 applicable with respect to months beginning on or after Sept. 1, 2005, see section 609(c) of Pub. L. 109–163, set out as a note under section 403 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VI, § 632(c), Dec. 28, 2001, 115 Stat. 1144, provided that: ''The amendments made by this section [amending this section] shall take effect on January 1, 2002, and apply with respect to an order issued on or after that date to a member of the uniformed services to report to the member's first permanent duty station.''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 621(c) of Pub. L. 103–160 provided that: ''The amendments made by this section [amending this section] shall take effect on April 1, 1994.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 613(b) of Pub. L. 99–145 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1985.''

EFFECTIVE DATE

Section 122(c) of Pub. L. 97–60 provided that: ''The amendments made by this section [enacting this section and amending section 411 of this title] shall take effect on April 1, 1982.''

PROHIBITION ON PAYMENT OF TEMPORARY LODGING EXPENSES; EXCEPTION

Pub. L. 99–500, § 101(c) [title IX, § 9097], Oct. 18, 1986, 100 Stat. 1783–82, 1783–117, and Pub. L. 99–591, § 101(c) [title IX, § 9097], Oct. 30, 1986, 100 Stat. 3341–82, 3341–117, provided that none of the funds appropriated by the Department of Defense Appropriations Act, 1987, Pub. L. 99–500, § 101(c), and Pub. L. 99–591, § 101(c), were to be available to pay temporary lodging expenses pursuant to subsec. (a) of this section, except that during fiscal year 1987, this provision was not to apply to those military personnel with dependents in grades E–4 and below.

### § 404b. Travel and transportation allowances: payment of lodging expenses at temporary duty location during authorized absence of member

(a) PAYMENT OR REIMBURSEMENT AUTHORIZED.—The Secretary concerned may pay or reimburse a member of the armed forces assigned to temporary duty as described in subsection (b) for lodging expenses incurred by the member at the temporary duty location during an authorized absence of the member from the temporary duty location.

(b) COVERED MEMBERS.—Subsection (a) applies with respect to a member assigned to temporary duty, for a period of more than 30 days, in support of a contingency operation or in other specific situations designated by the Secretary concerned if the member——

(1) immediately before the authorized absence, was performing the temporary duty at a location away from the home or permanent duty station of the member;

(2) was receiving a per diem allowance under section 404(a)(4) of this title to cover lodging and subsistence expenses incurred at the temporary duty location because quarters of the United States were not available for assignment to the member at that location; and

(3) before the end of the authorized absence, returns to the duty location.

(c) PAYMENT LIMITATION.—The amount paid or reimbursed under subsection (a) for a member may not exceed the lesser of—

(1) the actual daily cost of lodging incurred by the member at the temporary duty location during the authorized absence of the member; and

(2) the lodging portion of the applicable daily per diem rate for the temporary duty location.

(d) AUTHORIZED ABSENCE DEFINED.—In this section, the term ''authorized absence'', with respect to a member, means that the member is in an authorized leave status or that the absence of the member is otherwise authorized under regulations prescribed by the Secretary concerned.

(Added Pub. L. 108–136, div. A, title VI, § 635(a), Nov. 24, 2003, 117 Stat. 1510; amended Pub. L. 109–163, div. A, title VI, § 651(a), (b)(1), Jan. 6, 2006, 119 Stat. 3311.)

AMENDMENTS

2006—Pub. L. 109–163, § 651(b)(1), substituted ''Travel and transportation allowances: payment of lodging expenses at temporary duty location during authorized absence of member'' for ''Travel and transportation allowances: lodging expenses at temporary duty location for members on authorized leave'' in section catchline.

Subsec. (a). Pub. L. 109–163, § 651(a)(1), substituted ''during an authorized absence of the member from the temporary duty location'' for ''while the member is in an authorized leave status''.

Subsec. (b)(1). Pub. L. 109–163, § 651(a)(2)(A), substituted ''the authorized absence'' for ''taking the authorized leave''.

Subsec. (b)(3). Pub. L. 109–163, § 651(a)(2)(B), substituted ''before the end of the authorized absence'' for ''immediately after completing the authorized leave''.

Subsec. (c)(1). Pub. L. 109–163, § 651(a)(3), substituted ''during the authorized absence of the member'' for ''while the member was in an authorized leave status''.

Subsec. (d). Pub. L. 109–163, § 651(a)(4), added subsec. (d).

### § 405. Travel and transportation allowances: per diem while on duty outside the continental United States

(a) PER DIEM AUTHORIZED.—Without regard to the monetary limitation of this title, the Secretary concerned may pay a per diem to a member of the uniformed services who is on duty outside of the continental United States, whether or not the member is in a travel status. The Secretary may pay the per diem in advance of the accrual of the per diem.

(b) DETERMINATION OF PER DIEM.—In determining the per diem to be paid under this section, the Secretary concerned shall consider all elements of the cost of living to members of the uniformed services under the Secretary's jurisdiction and their dependents, including the cost of quarters, subsistence, and other necessary incidental expenses. However, dependents may not be considered in determining the per diem allowance for a member in a travel status.

(c) TREATMENT OF HOUSING COST AND ALLOWANCE.—Housing cost and allowance may be disregarded in prescribing a station cost of living allowance under this section.

(d) UNUSUAL OR EXTRAORDINARY EXPENSES.—(1) The Secretary concerned may reimburse a member of the uniformed services on duty as described in subsection (a) or (e) for an unusual or extraordinary expense incurred by the member incident to such duty that—

(A) is directly related to the conditions or location of the duty or the location of the member's dependents;

(B) is of a nature or a magnitude not normally incurred by members of the uniformed services on duty inside the continental United States; and

(C) is not included in the per diem determined under subsection (b) as payable to the member under subsection (a) or (e).

(2) Any reimbursement provided to a member under paragraph (1) is in addition to a per diem payable to that member under subsection (a) or (e).

(e) PAYMENT OF ALLOWANCE BASED ON OVERSEAS LOCATION OF DEPENDENTS.—In the case of a member assigned to duty inside the continental United States whose dependents continue to reside outside the continental United States, the Secretary concerned may pay the member a per diem under this section based on the location of the dependents and provide reimbursement under subsection (d) for an unusual or extraordinary expense incurred by the dependents if the Secretary determines that such payment or reimbursement is in the best interest of the member or the member's dependents and in the best interest of the United States.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 473; Pub. L. 89–718, § 57, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 91–486, Oct. 22, 1970, 84 Stat. 1085; Pub. L. 96–107, title VIII, § 807(a), Nov. 9, 1979, 93 Stat. 813; Pub. L. 98–525, title VI, § 602(e), Oct. 19, 1984, 98 Stat. 2536; Pub. L. 99–145, title XIII, § 1303(b)(8), Nov. 8, 1985, 99 Stat. 741; Pub. L. 101–189, div. A, title VI,

§ 622(a), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 103–160, div. A, title VI, § 622(a), Nov. 30, 1993, 107 Stat. 1683; Pub. L. 105–85, div. A, title VI, § 603(c)(2), Nov. 18, 1997, 111 Stat. 1781; Pub. L. 105–261, div. A, title VI, § 603(b), Oct. 17, 1998, 112 Stat. 2037; Pub. L. 106–398, § 1 [[div. A], title VI, § 641(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–160; Pub. L. 108–375, div. A, title VI, § 605(a), (b)(1), (2), Oct. 28, 2004, 118 Stat. 1945; Pub. L. 109–163, div. A, title VI, § 612, Jan. 6, 2006, 119 Stat. 3291.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 405 ..... | 37:253(b). | Oct. 12, 1949, ch. 681, § 303(b), 63 Stat. 814. |

The words ''Secretaries concerned'' are substituted for the words ''Secretaries of the uniformed services'' to conform to other subsections of the source statute. The words ''outside the United States, or in Hawaii or Alaska'' are substituted for the words ''outside the continental United States or in Alaska'' to conform to the definition of United States in section 101(1) of this revised title and to retain the coverage of the source statute.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–163, § 612(b)(1), substituted ''Unusual or Extraordinary'' for ''Nonrecurring'' in heading.

Subsec. (d)(1). Pub. L. 109–163, § 612(b)(1), (3)(A), in introductory provisions, inserted ''or (e)'' after ''subsection (a)'' and substituted ''an unusual or extraordinary'' for ''a nonrecurring''.

Subsec. (d)(1)(A). Pub. L. 109–163, § 612(b)(3)(B), inserted ''or the location of the member's dependents'' before semicolon.

Subsec. (d)(1)(C), (2). Pub. L. 109–163, § 612(b)(2), inserted ''or (e)'' after ''subsection (a)''.

Subsec. (e). Pub. L. 109–163, § 612(a), added subsec. (e).

2004—Pub. L. 108–375, § 605(b)(2), amended section catchline generally, substituting ''continental United States'' for ''United States or in Hawaii or Alaska''.

Subsec. (a). Pub. L. 108–375, § 605(b)(1), substituted ''outside of the continental United States'' for ''outside of the United States or in Hawaii or Alaska''.

Subsec. (d). Pub. L. 108–375, § 605(a), added subsec. (d).

2000—Pub. L. 106–398 amended section generally. Prior to amendment, section authorized payment of a per diem to members of the uniformed services on duty outside of the United States or in Hawaii or Alaska and specified what elements were to be considered in determining the per diem allowance.

1998—Subsec. (c). Pub. L. 105–261 struck out subsec. (c) which authorized the Secretary concerned to make a lump-sum payment for nonrecurring expenses to certain members of the uniformed services authorized to receive per diem allowances under subsec. (a).

1997—Subsecs. (b) to (d). Pub. L. 105–85 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: ''A station housing allowance may be prescribed under this section for a member who is on duty outside of the United States without regard to costs other than housing costs and may consist of the difference between basic allowance for quarters and applicable housing cost. A station housing allowance may not be prescribed under this section for a member who is on duty in Hawaii or Alaska. A station housing allowance prescribed under this section may be paid in advance.''

1993—Subsec. (d). Pub. L. 103–160 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''In the case of a member of the uniformed services authorized to receive a per diem allowance under subsection (a), the Secretary concerned may make a lump-sum payment for nonrecurring expenses incurred by the member in occupying private housing outside of the United States. Expenses for which payments are made under this subsection may not be considered for purposes of determining the per diem allowance of the member under subsection (a).''

1989—Subsec. (d). Pub. L. 101–189 added subsec. (d).

1985—Pub. L. 99–145 inserted ''the'' after ''outside'' in section catchline.

1984—Subsec. (a). Pub. L. 98–525, § 602(e)(1), designated first two sentences of existing section as subsec. (a).

Subsec. (b). Pub. L. 98–525, § 602(e)(2), (3), designated third and fourth sentences of existing section as subsec. (b), in such third sentence as so designated inserted ''for a member who is on duty outside of the United States'' after ''under this section'', and inserted after such third sentence: ''A station housing allowance may not be prescribed under this section for a member who is on duty in Hawaii or Alaska.''

Subsec. (c). Pub. L. 98–525, § 602(e)(4), designated last sentence of existing section as subsec. (c).

1979—Pub. L. 96–107 inserted provisions relating to advance payment of station housing allowances.

1970—Pub. L. 91–486 inserted provision authorizing a station housing allowance.

1966—Pub. L. 89–718 substituted ''the'' for ''a'' after ''including''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 622(b) of Pub. L. 103–160 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to nonrecurring expenses and currency fluctuation gains described in section 405(d) [now 405(c)] of title 37, United States Code, that are incurred by members of the uniformed services on or after October 1, 1993.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 622(b) of Pub. L. 101–189 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to expenses incurred after August 31, 1990.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective Jan. 1, 1985, with exceptions, see section 602(f) of Pub. L. 98–525, as amended, set out as a note under section 403 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 807(b) of Pub. L. 96–107 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1979.''

## § 405a. Travel and transportation allowances: departure allowances

(a) Under regulations prescribed by the Secretaries concerned, when dependents of members of the uniformed services are authorized or ordered to depart by competent authority, they may be authorized such allowances as the Secretary concerned determines necessary to offset the expenses incident to the departure. Allowances authorized by this section are in addition to those authorized by any other section of this title. Such allowances may be paid in advance. For the purposes of this section, a dependent ''authorized or ordered to depart by competent authority'' includes—

(1) a dependent who is present at or in the vicinity of the member's duty station when

the departure of dependents is authorized or ordered by competent authority and who actually moved to an authorized safe haven designated by that authority, whether such safe haven is at or in the vicinity of the member's duty station or elsewhere;

(2) a dependent who resides at or in the vicinity of a former duty station of the member following the assignment of the member elsewhere or who resides at or in the vicinity of a duty station (other than the duty station of the member) incident to orders in connection with an unaccompanied tour of duty of the member, if a departure of dependents is authorized or ordered by competent authority from the duty station at which or in the vicinity of which the dependent resides and the dependent actually moves to an authorized safe haven designated by that authority;

(3) a dependent who established a household at or in the vicinity of the member's duty station but who is temporarily absent therefrom for any reason when departure of dependents is authorized or ordered by competent authority; and

(4) a dependent who was authorized to join the member and who departed from his former place of residence incident to joining the member but who, as a result of the departure of dependents, is diverted to a safe haven designated by competent authority or is authorized to travel to a place the dependent may designate, even though he was in the United States when the departure was authorized or ordered.

(b)(1) Under regulations prescribed by the Secretaries concerned, each member whose dependents are covered by subsection (a) is entitled to have one motor vehicle that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents, transported at the expense of the United States to a designated place for the use of the dependents. When the dependents are permitted to rejoin the member, the vehicle may be transported at the expense of the United States to his permanent duty station.

(2) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under paragraph (1) does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the dependent's use. The amount reimbursed may not exceed $30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first).

(Added Pub. L. 89–26, § 1(1), May 22, 1965, 79 Stat. 116; amended Pub. L. 89–608, § 2, Sept. 30, 1966, 80 Stat. 851; Pub. L. 96–465, title II, § 2303(e), Oct. 17, 1980, 94 Stat. 2165; Pub. L. 97–60, title I, §§ 121(c), 123, Oct. 14, 1981, 95 Stat. 1002, 1003; Pub. L. 99–661, div. A, title XIII, § 1343(b)(3), Nov. 14, 1986, 100 Stat. 3995; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title VI, § 625(b)(1), Oct. 23, 1992, 106 Stat. 2424; Pub. L. 104–106, div. A, title VI, § 622(a), Feb. 10, 1996, 110 Stat. 363; Pub. L. 105–261, div. A, title VI, § 653(c), Oct. 17, 1998, 112 Stat. 2052.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–261 designated existing provisions as par. (1) and added par. (2).

1996—Subsec. (a). Pub. L. 104–106 substituted "authorized or ordered" for "ordered" wherever appearing.

1992—Subsec. (a)(2) to (4). Pub. L. 102–484 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1991—Subsec. (b). Pub. L. 102–25 struck out "of this section" after "subsection (a)".

1986—Pub. L. 99–661 substituted "departure" for "evacuation" in section catchline.

1981—Subsec. (a). Pub. L. 97–60, § 123, inserted provision authorizing the payment of allowances in advance.

Subsec. (b). Pub. L. 97–60, § 121(c), substituted "that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents" for "owned by him and for his personal use, or the use of the dependents,".

1980—Subsec. (a). Pub. L. 96–465 substituted "to depart" and "departure" for "evacuated" and "evacuation", respectively, wherever appearing.

1966—Subsec. (a). Pub. L. 89–608 struck out provision requiring that to qualify for allowances the evacuated dependents have been evacuated from places outside the United States to places inside the United States.

EFFECTIVE DATE OF 1998 AMENDMENT

For provisions relating to the applicability of amendment by Pub. L. 105–261, see section 653(e) of Pub. L. 105–261, set out as a note under section 2634 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 622(b) of Pub. L. 104–106 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to persons authorized or ordered to depart as described in section 405a(a) of title 37, United States Code, on or after October 1, 1995."

EFFECTIVE DATE OF 1992 AMENDMENT

Section 625(b)(2) of Pub. L. 102–484 provided that: "The amendments made by paragraph (1) [amending this section] shall take effect as of August 23, 1992, and shall apply with respect to any evacuation ordered by competent military authority on or after that date."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–60 effective Nov. 1, 1981, to apply to members who are separated from the service or released from active duty on or after Nov. 1, 1981, see section 121(d) of Pub. L. 97–60, set out as a note under section 404 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section 2 of Pub. L. 89–26, as amended by Pub. L. 89–608, § 1, Sept. 30, 1966, 80 Stat. 851; Pub. L. 92–176, Dec. 2, 1971, 85 Stat. 494, provided that: "This Act [enacting this section and amending sections 407, 411, and 1006 of this title] becomes effective on February 1, 1965."

## § 406. Travel and transportation allowances: dependents; baggage and household effects

(a)(1) Except as provided in paragraph (2), a member of a uniformed service who is ordered to

make a change of permanent station is entitled to transportation in kind, reimbursement therefor, or a monetary allowance in place of the cost of transportation, plus a per diem, for the member's dependents at rates prescribed by the Secretaries concerned, but not more than the rate authorized under section 404(d) of this title. The Secretary concerned may also reimburse the member for mandatory pet quarantine fees for household pets, but not to exceed $550 per change of station, when the member incurs the fees incident to such change of station.

(2)(A) Except as provided in subparagraph (B), a member who—

(i) is separated from the service or released from active duty; and

(ii) on the date of his separation from the service or release from active duty, has not served on active duty for a period of time equal to at least 90 percent of the period of time for which he initially enlisted or otherwise initially agreed to serve,

may be provided transportation under this subsection for his dependents only by transportation in kind by the least expensive mode of transportation available or by a monetary allowance that does not exceed the cost to the Government of such transportation in kind.

(B) Subparagraph (A) does not apply to a member—

(i) who is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(ii) who is separated from the service or released from active duty for a medical condition affecting the member, as determined by the Secretary concerned;

(iii) who is separated from the service or released from active duty because the period of time for which the member initially enlisted or otherwise initially agreed to serve has been reduced by the Secretary concerned and is separated or released under honorable conditions;

(iv) who is discharged under section 1173 of title 10; or

(v) who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, 2001.

(3) The allowances authorized under this subsection may be paid in advance.

(4) In this section, the term ''involuntarily separated'' has the meaning given that term in section 1141 of title 10.

(b)(1)(A) Except as provided in paragraph (2), in connection with a change of temporary or permanent station, a member is entitled to transportation (including packing, crating, drayage, temporary storage, and unpacking) of baggage and household effects within the weight allowances listed in subparagraph (C), without regard to the comparative costs of the various modes of transportation. Temporary storage in excess of 180 days may be authorized. Alternatively, the member may be paid reimbursement or a monetary allowance under subparagraph (F).

(B) Subject to uniform regulations prescribed by the Secretaries concerned, in the case of a permanent change of station in which the Secretary concerned has authorized transportation of a motor vehicle under section 2634 of title 10 (except when such transportation is authorized from the old duty station to the new duty station), the member is entitled to a monetary allowance for transportation of that motor vehicle—

(i) from the old duty station to—

(I) the customary port of embarkation which is nearest the old duty station if delivery of the motor vehicle to the port of embarkation is not made in conjunction with the member's travel to the member's port of embarkation; or

(II) the customary port of embarkation which is nearest to the member's port of embarkation if delivery of the motor vehicle to the port of embarkation is made in conjunction with the member's travel to the member's port of embarkation;

whichever is most cost-effective for the Government considering all operational, travel, and transportation requirements incident to such change of station; and

(ii) from the customary port of debarkation which has been designated by the Government as most cost-effective for the Government considering all operational, travel, and transportation requirements incident to such change of station to the new duty station.

Such monetary allowance shall be established at a rate per mile that does not exceed the rate established under section 404(d)(1) of this title. If clause (i)(I) applies to the transportation by the member of a motor vehicle from the old duty station, the monetary allowance under this subparagraph shall also cover return travel to the old duty station by the member or other person transporting the vehicle. In the case of transportation described in clause (ii), the monetary allowance shall also cover travel from the new duty station to the port of debarkation to pick up the vehicle. In the case of the transportation of a motor vehicle arranged by the member under section 2634(h) of title 10, the Secretary concerned may pay the member, upon presentation of proof of shipment, a monetary allowance in lieu of transportation, as established under section 404(d)(1) of this title.

(C) Under regulations prescribed by the Secretary of Defense, the weight allowance in pounds to which a member is entitled under subparagraph (A) is determined in accordance with the following table:

| Pay Grade | Without Dependents | With Dependents |
|---|---|---|
| O–10 to O–6 | 18,000 | 18,000 |
| O–5 | 16,000 | 17,500 |
| O–4 | 14,000 | 17,000 |
| O–3 | 13,000 | 14,500 |
| O–2 | 12,500 | 13,500 |
| O–1 | 10,000 | 12,000 |
| W–5 | 16,000 | 17,500 |
| W–4 | 14,000 | 17,000 |
| W–3 | 13,000 | 14,500 |
| W–2 | 12,500 | 13,500 |
| W–1 | 10,000 | 12,000 |
| E–9 | 13,000 | 15,000 |
| E–8 | 12,000 | 14,000 |

| Pay Grade | Without Dependents | With Dependents |
|---|---|---|
| E–7 | 11,000 | 13,000 |
| E–6 | 8,000 | 11,000 |
| E–5 | 7,000 | 9,000 |
| E–4 | 7,000 | 8,000 |
| E–3 | 5,000 | 8,000 |
| E–2 | 5,000 | 8,000 |
| E–1 | 5,000 | 8,000 |

(D)(i) In connection with the change of temporary or permanent station of a member in a pay grade below pay grade O–6, the Secretary concerned may authorize a higher weight allowance than the weight allowance determined under subparagraph (C) for the member if the Secretary concerned determines that the application of the weight allowance determined under such subparagraph would result in significant hardship to the member or the dependents of the member. An increase in weight allowance under this clause may not result in a weight allowance exceeding the weight allowance specified in subparagraph (C) for pay grades O–6 to O–10, unless the additional weight allowance in excess of such maximum is intended to permit the shipping of consumables that cannot be reasonably obtained at the new station of the member.

(ii) In addition to the weight allowance authorized for such member with dependents under paragraph (C), the Secretary concerned may authorize up to an additional 500 pounds in weight allowance for shipment of professional books and equipment belonging to the spouse of such member.

(iii) The Secretary of Defense shall prescribe regulations to carry out this subparagraph.

(E) Under regulations prescribed by the Secretary of Defense, or the Secretary of Homeland Security for the Coast Guard when it is not operating as a service in the Navy, cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with temporary or permanent station change, to transportation of baggage and household effects as provided in subparagraph (A). The weight allowance for cadets and midshipmen is 350 pounds.

(F) A member entitled to transportation of baggage and household effects under subparagraph (A) may, as an alternative to the provision of transportation, be paid reimbursement or, at the member's request, a monetary allowance in advance for the cost of transportation of the baggage and household effects. The monetary allowance may be paid only if the amount of the allowance does not exceed the cost that would be incurred by the Government under subparagraph (A) for the transportation of the baggage and household effects. Appropriations available to the Department of Defense, the Department of Homeland Security, and the Department of Health and Human Services for providing transportation of baggage or household effects of members of the uniformed services shall be available to pay a reimbursement or monetary allowance under this subparagraph. The Secretary concerned may prescribe the manner in which the risk of liability for damage, destruction, or loss of baggage or household effects arranged, packed, crated, or loaded by a member is allocated among the member, the United States, and any contractor when a reimbursement or monetary allowance is elected under this subparagraph.

(G) Under regulations prescribed by the Secretary of Defense, the Secretary concerned may pay a member a share (determined pursuant to such regulations) of the savings resulting to the United States when the total weights of the member's baggage and household effects shipped and stored under subparagraph (A) are less than the average weights of the baggage and household effects that are shipped and stored, respectively, by other members in the same grade and with the same dependents status as the member in connection with changes of station that are comparable to the member's change of station. The total savings shall be equal to the difference between the cost of shipping and cost of storing such average weights of baggage and household effects, respectively, and the corresponding costs associated with the weights of the member's baggage and household effects. For the administration of this subparagraph, the Secretary of Defense shall annually determine the average weights of baggage and household effects shipped and stored in connection with a change of temporary or permanent station.

(H)(i) Except as provided in paragraph (2) and subject to clause (iii), in connection with an evacuation from a permanent station located in a foreign area, a member is entitled to transportation (including shipment and payment of any quarantine costs) of family household pets.

(ii) A member entitled to transportation under clause (i) may be paid reimbursement or, at the member's request, a monetary allowance in accordance with the provisions of subparagraph (F) if the member secures by commercial means shipment and any quarantining of the pets otherwise subject to transportation under clause (i).

(iii) The provision of transportation under clause (i) and the payment of reimbursement under clause (ii) shall be subject to such regulations as the Secretary of Defense shall prescribe with respect to members of the armed forces for purposes of this subparagraph. Such regulations may specify limitations on the types, size, and number of pets for which transportation may be provided or reimbursement paid.

(2) The transportation and allowances authorized under paragraph (1) may be paid or provided to a member upon his separation from the service or release from active duty only if the member applies for the transportation and allowances not later than 180 days after the date of his separation or release from active duty. If a member to whom this paragraph applies has been authorized nontemporary storage under subsection (d), the 180-day period shall not begin until such authorization for nontemporary storage expires. This paragraph does not apply to a member to whom subsection (g)(1) applies.

(c) The allowances and transportation authorized by subsections (a) and (b) are in addition to

those authorized by sections 403(c), 404, and 405 of this title and are—

(1) subject to such conditions and limitations;

(2) for such grades, ranks, and ratings; and

(3) to and from such places;

prescribed by the Secretaries concerned. Transportation of the household effects of a member may not be made by commercial air carrier at an estimated over-all cost that is more than the estimated over-all cost of the transportation thereof by other means, unless an appropriate transportation officer has certified in writing to his commanding officer that those household effects to be so transported are necessary for use in carrying out assigned duties, or are necessary to prevent undue hardship and other means of transportation will not fill those needs. However, not more than 1,000 pounds of unaccompanied baggage may be transported by commercial air carrier, without regard to the preceding sentence, under regulations prescribed under the authority of the Secretary of Defense.

(d) The nontemporary storage of baggage and household effects may be authorized in facilities of the United States, or in commercial facilities when it is considered to be more economical to the United States. However, the weight of baggage and household effects stored, plus the weight of the baggage and household effects transported, in connection with a change of station may not be more than the maximum weight limitations in regulations prescribed by the Secretaries concerned when it is not otherwise fixed by law. In the event a member's baggage and household effects exceed such maximum weight limitation, the Secretary concerned, if requested to do so by the member, may pay the costs for the nontemporary storage of that excess weight and collect the amount paid from the member's pay and allowances, or collect the amount in such other manner as the Secretary concerned determines appropriate. The nontemporary storage of baggage and household effects may not be authorized for a period longer than one year from the date the member concerned is separated from the service, retired, placed on the temporary disability retired list, discharged, or released from active duty, except as prescribed in regulations by the Secretaries concerned for a member who, on that date, or at any time during the one-year period following that date, is confined in a hospital, or is in its vicinity, undergoing medical treatment; or in the case of a member who—

(1) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10; or

(2) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than 90 days, is discharged with separation pay or severance pay or is involuntarily released from active duty with separation pay or readjustment pay.

Except in the case of a member who, on the date of his separation, discharge, or release, or at any time during the one-year period following that date, is confined in a hospital, or is in its vicinity, undergoing medical treatment, the cost of the storage, for the period that exceeds one year, shall be paid by the member.

(e) When orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of his dependents, baggage, and household effects, the Secretaries concerned may authorize the movement of the dependents, baggage, and household effects and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof (as the case may be), plus a per diem, as authorized under subsection (a) or (b). This subsection may be used only under unusual or emergency circumstances, including those in which—

(1) the member is performing duty at a place designated by the Secretary concerned as being within a zone from which dependents should be evacuated;

(2) orders which direct the member's travel in connection with temporary duty do not provide for return to the permanent station or do not specify or imply any limit to the period of absence from his permanent station; or

(3) the member is serving on permanent duty at a station outside the United States, in Hawaii or Alaska, or on sea duty.

(f)(1) Under regulations prescribed by the Secretary concerned, transportation for dependents, baggage, and household effects of a member, plus a per diem for the member's dependents, is authorized if the member dies while entitled to basic pay under chapter 3 of this title.

(2) The Secretary concerned shall give the dependents of a member described in paragraph (1) a period of not less than three years, beginning on the date of the death of the member, during which to select a home for the purposes of the travel and transportation allowances authorized by this section.

(g)(1) Under uniform regulations prescribed by the Secretaries concerned, a member who—

(A) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(B) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than 90 days, is discharged with separation pay or severance pay or is involuntarily released from active duty with separation pay or readjustment pay; or

(C) is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, 2001,

is, not later than one year from the date he is so retired, placed on that list, involuntarily separated, discharged, or released, except as prescribed in regulations by the Secretaries concerned, entitled to transportation for his dependents, baggage, and household effects to the home selected under section 404(c) of this title, and to a per diem for his dependents. In addition, baggage and household effects may be shipped to a location other than the home selected by the member.

(2) If baggage and household effects of a member are shipped to a place selected by a member

as his home under section 404(c) of this title that is not a place described in clause (A) or (B) of section 404(c)(2) of this title or to a location other than the home selected by the member, or if transportation is provided for a member's dependents to a place selected by the member as his home under section 404(c) of this title that is not a place described in clause (A) or (B) of section 404(c)(2) of this title, and the costs of that shipment or transportation are in excess of those that would have been incurred if the shipment had been made or the transportation had been provided to a location in the United States (other than Alaska or Hawaii), the member shall pay that excess cost.

(3) If a member authorized to select a home under section 404(c) of this title accrues that right or any entitlement under this subsection but dies before the member exercises the right or entitlement, that right or entitlement accrues to and may be exercised by the surviving dependents at any time before the end of the three-year period beginning on the date on which the member accrued that right or entitlement. If there are no surviving dependents, the baggage and household effects of the deceased member may be shipped to the home of the person legally entitled to such baggage and effects. However, if baggage and household effects are shipped under circumstances described in paragraph (2) in which the member would have been required to pay the excess costs of that shipment, the surviving dependents or the person legally entitled to the baggage and household effects, as the case may be, shall pay that excess cost.

(h)(1) If the Secretary concerned determines that it is in the best interests of a member described in paragraph (2) or the member's dependents and the United States, the Secretary may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of the member's dependents, baggage, and household effects—

(A) authorize the movement of the member's dependents, baggage, and household effects at the station to an appropriate location in the United States or its possessions or, if the dependents are foreign nationals, to the country of the dependents' origin and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, plus a per diem, as authorized under subsection (a) or (b); and

(B) in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle, which is owned or leased by the member (or a dependent of the member) and is for the personal use of a dependent of the member, to that location by means of transportation authorized under section 2634 of title 10 or authorize the storage of the motor vehicle pursuant to subsection (b) of such section.

If the member's baggage and household effects are in nontemporary storage under subsection (d), the Secretary concerned may authorize their movement to the location concerned and prescribe transportation in kind or reimbursement therefor, as authorized under subsection (b). For the purposes of this section, a member's unmarried child for whom the member received transportation in kind to his station outside the United States or in Hawaii or Alaska, reimbursement therefor, or a monetary allowance in place thereof and who, by reason of age or graduation from (or cessation of enrollment in) an institution of higher education, would otherwise cease to be a dependent of the member while the member was serving at that station shall still be considered as a dependent of the member.

(2) A member referred to in paragraph (1) is a member who—

(A) is serving at a station outside the United States or in Hawaii or Alaska;

(B) receives an administrative discharge under other than honorable conditions; or

(C) is sentenced by a court-martial—

(i) to be confined for a period of more than 30 days,

(ii) to receive a dishonorable or bad-conduct discharge, or

(iii) to be dismissed from a uniformed service.

(3) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this subsection does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the dependent's use. The amount reimbursed may not exceed $30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first).

(4)(A) If a determination described in subparagraph (B) is made with respect to a dependent of a member described in that subparagraph and a request described in subparagraph (C) is made by or on behalf of that dependent, the Secretary may provide a benefit authorized for a member under paragraph (1) or (3) to that dependent in lieu of providing such benefit to the member.

(B) A determination described in this subparagraph is a determination by the commanding officer of a member that—

(i) the member has committed a dependent-abuse offense against a dependent of the member;

(ii) a safety plan and counseling have been provided to that dependent;

(iii) the safety of the dependent is at risk; and

(iv) the relocation of the dependent is advisable.

(C) A request described in this subparagraph is a request by the spouse of a member, or by the parent of a dependent child in the case of a dependent child of a member, for relocation.

(D) Transportation may be provided under this paragraph for household effects or a motor vehicle only if a written agreement of the member, or an order of a court of competent jurisdiction,

gives possession of the effects or vehicle to the spouse or dependent of the member concerned.

(E) In this paragraph, the term ''dependent-abuse offense'' means an offense described in section 1059(c) of title 10.

(i) A member traveling under orders who is relieved from a duty station is entitled to transportation for his dependents, baggage, and household effects, plus a per diem for the member's dependents, regardless of the time the dependents, baggage, or household effects arrive at their destination. Appropriations of the Department of Defense available for travel or transportation that are current when the member is relieved may be used to pay for the transportation.

(j) Under uniform regulations prescribed by the Secretaries concerned, a member with dependents who is ordered to make an overseas permanent change of station and who, in anticipation of his dependents accompanying him overseas, ships baggage and household effects to that overseas station, may be authorized a return shipment of the baggage and household effects if, after the shipment, the member's dependents are unable to accompany him overseas and the Secretary concerned determines that such inability was unexpected and uncontrollable.

(k) A member of the armed forces who relocates from leased or rental housing by reason of the foreclosure of such housing is entitled to transportation of baggage and household effects under subsection (b)(1) in the same manner, and subject to the same conditions and limitations, as similarly circumstanced members entitled to transportation of baggage and household effects under that subsection.

(*l*) For the purposes of this section, the residence of a dependent of a member who is a student not living with the member while at school shall be considered to be the permanent duty station of the member or the designated residence of dependents of the member if the member's dependents are not authorized to reside with the member.

(m) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of baggage and household goods being transported under this section.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 473; Pub. L. 88–431, §1(a), Aug. 14, 1964, 78 Stat. 439; Pub. L. 89–101, §2, July 30, 1965, 79 Stat. 425; Pub. L. 89–680, §1(2), (3), Oct. 15, 1966, 80 Stat. 957; Pub. L. 89–718, §§58, 59, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90–623, §3(6), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96–107, title VIII, §814, Nov. 9, 1979, 93 Stat. 817; Pub. L. 96–513, title V, §506(7), Dec. 12, 1980, 94 Stat. 2919; Pub. L. 97–60, title I, §121(b), Oct. 14, 1981, 95 Stat. 1000; Pub. L. 97–86, title IV, §404, Dec. 1, 1981, 95 Stat. 1105; Pub. L. 97–258, §2(i)(1), Sept. 13, 1982, 96 Stat. 1061; Pub. L. 97–295, §3(4), Oct. 12, 1982, 96 Stat. 1303; Pub. L. 98–94, title IX, §909, Sept. 24, 1983, 97 Stat. 638; Pub. L. 99–145, title VI, §§612(b), 614(a), 617(a), title XIII, §1303(b)(9), Nov. 8, 1985, 99 Stat. 639–641, 741; Pub. L. 99–433, title VI, §602(f)(2), Oct. 1, 1986, 100 Stat. 1070; Pub. L. 99–661, div. A, title VI, §§617(a), 620(a), (b)(1), 652(a), (b), Nov. 14, 1986, 100 Stat. 3880, 3882, 3888; Pub. L. 100–180, div. A, title VI, §616(b), Dec. 4, 1987, 101 Stat. 1096; Pub. L. 100–456, div. A, title VI, §602(a), Sept. 29, 1988, 102 Stat. 1976; Pub. L. 101–189, div. A, title VI, §623(a), (b), Nov. 29, 1989, 103 Stat. 1447; Pub. L. 101–510, div. A, title V, §503(b), title VI, §§621, 622(a), title XIV, §1484(i)(9), Nov. 5, 1990, 104 Stat. 1558, 1580, 1718; Pub. L. 102–25, title VII, §702(b)(1)–(3), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title XI, §1111(d)(4), Dec. 5, 1991, 105 Stat. 1492; Pub. L. 102–241, §12, Dec. 19, 1991, 105 Stat. 2213; Pub. L. 102–484, div. A, title VI, §622(a), title X, §1054(a)(4), Oct. 23, 1992, 106 Stat. 2422, 2502; Pub. L. 103–160, div. A, title V, §561(*l*)(1), title XI, §1182(d)(1), Nov. 30, 1993, 107 Stat. 1668, 1773; Pub. L. 104–106, div. A, title VI, §§623, 642(a)(1), title XV, §§1502(b), 1505(d), Feb. 10, 1996, 110 Stat. 363, 368, 506, 514; Pub. L. 104–201, div. A, title III, §368(b), title VI, §§621(a), 624, Sept. 23, 1996, 110 Stat. 2498, 2548; Pub. L. 105–85, div. A, title VI, §§603(d)(1)(B), 631, Nov. 18, 1997, 111 Stat. 1782, 1795; Pub. L. 105–261, div. A, title V, §561(f), title VI, §§631(a), (b)(1), 632, 653(b), Oct. 17, 1998, 112 Stat. 2025, 2043, 2044, 2051; Pub. L. 106–398, §1 [[div. A], title V, §571(f), title VI, §§642(a), 643], Oct. 30, 2000, 114 Stat. 1654, 1654A–134, 1654A–161; Pub. L. 107–107, div. A, title VI, §§633(a), 634(a), Dec. 28, 2001, 115 Stat. 1144; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title V, §571, title VI, §631(b), Nov. 24, 2003, 117 Stat. 1484, 1508; Pub. L. 109–163, div. A, title VI, §§652, 654(a), Jan. 6, 2006, 119 Stat. 3312, 3313; Pub. L. 110–289, div. B, title VI, §2609, July 30, 2008, 122 Stat. 2862; Pub. L. 110–417, [div. A], title VI, §§621, 622, Oct. 14, 2008, 122 Stat. 4491, 4492.)

HISTORICAL AND REVISION NOTES
1962 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 406(a) ..... | 37:253(c) (1st sentence, less 1st 33 words, and less last 59 words). | Oct. 12, 1949, ch. 681, §303(c), (1st through 3d, 9th, 11th, 13th through 16th and last, sentences), 63 Stat. 814; Mar. 31, 1955, ch. 20, §2(12), (13), 69 Stat. 21, 22; Aug. 5, 1955, ch. 571, 69 Stat. 532; Aug. 11, 1955, ch. 806, §2, 69 Stat. 691; July 12, 1960, Pub. L. 86–637, §1(a), 74 Stat. 471; July 12, 1960, Pub. L. 86–638, §2, 74 Stat. 471; Aug. 17, 1961, Pub. L. 87–140, 75 Stat. 341. |
| 406(b) ..... | 37:253(c) (last 59 words of 1st sentence). | |
| 406(c) ..... | 37:253(c) (1st 33 words of 1st sentence and 2d sentence). | |
| 406(d) ..... | 37:253(c) (3d sentence). | |
| 406(e) ..... | 37:253(c) (9th sentence). | |
| 406(f) ..... | 37:253(c) (11th sentence). | |
| 406(g) ..... | 37:253(c) (13th through 16th, and last, sentences). | |

In subsection (b), the words ''to and from such locations'' are omitted as covered by subsection (c)(3).

In subsection (c), the 15 words preceding clause (1) of the first sentence are substituted for the 1st 7 words of the 1st sentence of section 253(c) of existing title 37. The 39th through 47th words of the 2d sentence of section 253(c) of existing title 37 are omitted as covered by section 411(a) of this revised title.

In subsection (d), the words ''the weight of the baggage and household effects stored . . . may not be more than'' are substituted for the words ''in no instance shall the weight stored . . . exceed''. The words ''except as prescribed in regulations'' are substituted for the words ''except that a longer period may be authorized by regulations promulgated''. The words ''Secretaries concerned'' are substituted for the words ''respective

Secretaries'' to conform to other subsections of the source statute.

In subsection (f), the words ''of a member'' are inserted for clarity. The words ''if he dies'' are substituted for the words ''upon the death of a member''. The words ''under chapter 3 of this title'' are substituted for the reference to section 232(e) of title 37, since subsection (e) was redesignated as subsection (d) by section 2(2) of the Act of March 31, 1955, cited above.

In subsection (g), the words ''under chapter 61 of title 10'' are inserted for clarity. The words ''under any other law'' are substituted for the words ''for any other reason''. The words ''In addition,'' are substituted for the word ''Such'', and the words ''the member'' are substituted for the word ''him'', for clarity. The words ''section 404(c) of this title'' are substituted for the words ''subsection (a) of this section'' to reflect the section of this revised title which restates that subsection.

1982 ACTS

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 406(j) ..... | 31:650a. | Aug. 1, 1953, ch. 305, § 604, 67 Stat. 349. |

The text of 31:650a (related to a member of an armed force) is omitted as unnecessary because of 37:404(a)(3). The words ''On and after August 1, 1953'' are omitted as executed. The words ''A member . . . is entitled to'' are substituted for ''personnel'' for clarity and consistency in the title. The word ''baggage'' is added for consistency in the title. The words ''dependents, baggage, or household effects'' are substituted for ''such personnel'' for clarity. The word ''otherwise'' is omitted as surplus. The words ''used to pay for that transportation'' are substituted for ''charged with all expenses in connection with such travel including'' for clarity.

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 406(k) ..... | 37:406 (note). | Feb. 9, 1976, Pub. L. 94–212, § 747, 90 Stat. 176. |

The words ''to carry out subsection (b) of this section'' are substituted for ''for providing transportation of household effects of members of the armed forces pursuant to section 406(b) of title 37, United States Code'' to eliminate unnecessary words.

PRIOR PROVISIONS

Act Aug. 1, 1953, cited as the source of subsec. (j) of this section in the Historical and Revision Notes above, is known as the Department of Defense Appropriation Act, 1954. Similar provisions were contained in the following prior appropriation acts:

July 10, 1952, ch. 630, title VI, § 605, 66 Stat. 531.
Oct. 18, 1951, ch. 512, title VI, § 605, 65 Stat. 423.
Sept. 6, 1950, ch. 896, ch. X, title VI, § 605, 64 Stat. 752.
Oct. 29, 1949, ch. 787, title VI, § 605, 63 Stat. 1017.
June 24, 1948, ch. 632, 62 Stat. 652.
July 30, 1947, ch. 357, title I, 61 Stat. 554.
July 16, 1946, ch. 583, 60 Stat. 545.
July 3, 1945, ch. 265, 59 Stat. 388.
June 28, 1944, ch. 303, 58 Stat. 577.
July 1, 1943, ch. 185, 57 Stat. 351.
July 2, 1942, ch. 477, 56 Stat. 614.
June 30, 1941, ch. 262, 55 Stat. 371.
June 13, 1940, ch. 343, 54 Stat. 356.
Apr. 26, 1939, ch. 88, 53 Stat. 598.
June 11, 1938, ch. 347, 52 Stat. 647.
July 1, 1937, ch. 423, 50 Stat. 448.

AMENDMENTS

2008—Subsec. (b)(1)(D). Pub. L. 110–417, § 621, designated first two sentences of existing provisions as cl. (i) and substituted ''this clause'' for ''this subparagraph'' in second sentence, designated last sentence of existing provisions as cl. (iii) and realigned margins, and added cl. (ii).

Subsec. (b)(1)(H). Pub. L. 110–417, § 622, added subpar. (H).

Subsecs. (k) to (m). Pub. L. 110–289 added subsec. (k) and redesignated former subsecs. (k) and (*l*) as (*l*) and (m), respectively.

2006—Subsec. (b)(1)(C). Pub. L. 109–163, § 654(a), in table, increased the weight allowances for pay grades E–7, E–8, and E–9. Prior to amendment, the weight allowances for members without dependents and for members with dependents, respectively, were 10,500 and 12,500 for pay grade E–7, 11,000 and 13,500 for pay grade E–8, and 12,000 and 14,500 for pay grade E–9.

Subsec. (f). Pub. L. 109–163, § 652(a), designated existing provisions as par. (1), substituted ''the member'' for ''he'', and added par. (2).

Subsec. (g)(3). Pub. L. 109–163, § 652(b), in first sentence, substituted ''the member exercises the right or entitlement'' for ''he exercises it'', ''the surviving dependents at any time before the end of the three-year period beginning on the date on which the member accrued that right or entitlement. If'' for ''his surviving dependents or, if'', and ''the baggage and household effects of the deceased member'' for ''his baggage and household effects''.

2003—Subsec. (b)(1)(B). Pub. L. 108–136, § 631(b), inserted last sentence.

Subsec. (h)(4). Pub. L. 108–136, § 571, added par. (4).

2002—Subsec. (b)(1)(E), (F). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

2001—Subsec. (a)(1). Pub. L. 107–107, § 633(a), substituted ''$550'' for ''$275''.

Subsec. (b)(1)(C). Pub. L. 107–107, § 634(a), in table, struck out footnotes relating to pay grade E–4 and increased the weight allowances for pay grades E–1, E–2, E–3, and E–4. Prior to amendment, the weight allowances for members without dependents and for members with dependents, respectively, were 1,500 and 5,000 for pay grade E–1, 1,500 and 5,000 for pay grade E–2, 2,000 and 5,000 for pay grade E–3, 3,500 and 7,000 for pay grade E–4 members with less than two years of service, and 7,000 and 8,000 for E–4 members with more than two years of service.

2000—Subsec. (a)(1). Pub. L. 106–398, § 1 [[div. A], title VI, § 642(a)], inserted at end ''The Secretary concerned may also reimburse the member for mandatory pet quarantine fees for household pets, but not to exceed $275 per change of station, when the member incurs the fees incident to such change of station.''

Subsec. (a)(2)(B)(v). Pub. L. 106–398, § 1 [[div. A], title V, § 571(f)], substituted ''December 31, 2001'' for ''September 30, 2001''.

Subsec. (b)(1)(G). Pub. L. 106–398, § 1 [[div. A], title VI, § 643], added subpar. (G).

Subsec. (g)(1)(C). Pub. L. 106–398, § 1 [[div. A], title V, § 571(f)], substituted ''December 31, 2001'' for ''September 30, 2001''.

1998—Subsec. (a)(2)(B)(v). Pub. L. 105–261, § 561(f), substituted ''during the period beginning on October 1, 1990, and ending on September 30, 2001'' for ''during the nine-year period beginning on October 1, 1990''.

Subsec. (b)(1)(A). Pub. L. 105–261, § 631(a)(1), struck out '', or reimbursement therefor,'' after ''household effects'' and inserted at end ''Alternatively, the member may be paid reimbursement or a monetary allowance under subparagraph (F).''

Subsec. (b)(1)(D). Pub. L. 105–261, § 632, inserted before period at end of second sentence '', unless the additional weight allowance in excess of such maximum is intended to permit the shipping of consumables that cannot be reasonably obtained at the new station of the member''.

Subsec. (b)(1)(F). Pub. L. 105–261, § 631(a)(2), added subpar. (F).

Subsec. (g)(1)(C). Pub. L. 105–261, § 561(f), substituted ''during the period beginning on October 1, 1990, and ending on September 30, 2001'' for ''during the nine-year period beginning on October 1, 1990''.

Subsec. (h)(3). Pub. L. 105–261, §653(b), added par. (3).

Subsecs. (j) to (m). Pub. L. 105–261, §631(b)(1), redesignated subsecs. (k) to (m) as (j) to (*l*), respectively, and struck out former subsec. (j) which authorized the Secretary concerned to pay monetary allowance to member of armed forces or of Commissioned Corps of the Public Health Service who participates in a program in which member's baggage and household effects are transported by privately owned or rental vehicle or in which member provides labor in connection with transportation of baggage and household effects.

1997—Subsec. (c). Pub. L. 105–85, §603(d)(1)(B), substituted ''sections 403(c), 404, and 405'' for ''sections 404 and 405'' in introductory provisions.

Subsec. (h)(2)(C). Pub. L. 105–85, §631, substituted a period for a comma at end of cl. (iii) and struck out concluding provisions which read as follows: ''if the sentence is approved under section 860(c)(2) of title 10.''

1996—Subsec. (b)(1)(B). Pub. L. 104–201, §621(a), inserted at end ''If clause (i)(I) applies to the transportation by the member of a motor vehicle from the old duty station, the monetary allowance under this subparagraph shall also cover return travel to the old duty station by the member or other person transporting the vehicle. In the case of transportation described in clause (ii), the monetary allowance shall also cover travel from the new duty station to the port of debarkation to pick up the vehicle.''

Subsec. (b)(1)(E). Pub. L. 104–106, §1505(d), struck out ''of this paragraph'' after ''as provided in subparagraph (A)''.

Subsec. (h)(1). Pub. L. 104–106, §623, in concluding provisions, substituted ''who, by reason of age or graduation from (or cessation of enrollment in) an institution of higher education, would otherwise cease to be a dependent of the member'' for ''who became 21 years of age'' and inserted ''still'' before ''be considered as a dependent of the member.''

Subsec. (h)(1)(B). Pub. L. 104–201, §368(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle that is owned or leased by the member (or a dependent of the member) and is for his dependents' personal use to that location by means of transportation authorized under section 2634 of title 10.''

Subsec. (i). Pub. L. 104–106, §642(a)(1), redesignated subsec. (j) as (i) and struck out former subsec. (i) which read as follows: ''The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report at the end of each fiscal year fiscal year stating—

''(1) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were authorized by the Secretary concerned to receive allowances or transportation for dependents under subsection (a) or (h); and

''(2) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were not authorized to receive such allowances or transportation.''

Pub. L. 104–106, §1502(b), substituted ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives'' for ''Committees on Armed Services of the Senate and House of Representatives'' in introductory provisions. Amendment executed before amendment by section 642(a)(1) of Pub. L. 104–106, see above, pursuant to section 1506 of Pub. L. 104–106, set out as a note under section 101 of Title 10, Armed Forces.

Subsec. (j). Pub. L. 104–106, §642(a)(1), redesignated subsec. (k) as (j). Former subsec. (j) redesignated (i).

Subsec. (j)(1). Pub. L. 104–201, §624(1), substituted ''The Secretary concerned may pay a monetary allowance to a member of the armed forces or a member of the Commissioned Corps of the Public Health Service'' for ''Appropriations available to the Department of Defense for providing transportation of household effects of members of the armed forces under subsection (b) are available to pay a monetary allowance to a member'' and ''Secretary concerned'' for ''Secretary of the military department concerned''.

Subsec. (j)(3). Pub. L. 104–201, §624(2), added par. (3).

Subsecs. (k) to (n). Pub. L. 104–106, §642(a)(1), redesignated subsecs. (*l*) to (n) as (k) to (m), respectively. Former subsec. (k) redesignated (j).

1993—Subsec. (a)(2)(B)(v). Pub. L. 103–160, §561(*l*)(1), substituted ''nine-year period'' for ''five-year period''.

Subsec. (b)(1)(E). Pub. L. 103–160, §1182(d)(1), made technical amendment to directory language of Pub. L. 102–241. See 1991 Amendment note below.

Subsec. (g)(1)(C). Pub. L. 103–160, §561(*l*)(1), substituted ''nine-year period'' for ''five-year period''.

1992—Subsec. (g)(1)(A). Pub. L. 102–484, §1054(a)(4), inserted a semicolon after ''title 10''.

Subsec. (n). Pub. L. 102–484, §622(a), added subsec. (n).

1991—Subsec. (a)(1). Pub. L. 102–25, §702(b)(2), struck out ''of this subsection'' after ''paragraph (2)''.

Subsec. (a)(2)(A). Pub. L. 102–25, §702(b)(3), struck out ''of this paragraph'' after ''subparagraph (B)''.

Subsec. (a)(2)(B). Pub. L. 102–25, §702(b)(3), struck out ''of this paragraph'' after ''Subparagraph (A)''.

Subsec. (b)(1)(A). Pub. L. 102–25, §702(b)(2), struck out ''of this subsection'' after ''paragraph (2)''.

Subsec. (b)(1)(C). Pub. L. 102–190, §1111(d)(4), in table, inserted provisions relating to pay grade W–5.

Subsec. (b)(1)(E). Pub. L. 102–241, as amended by Pub. L. 103–160, §1182(d)(1), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''Under regulations prescribed by the Secretary of Defense, cadets at the United States Military Academy and the United States Air Force Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with a change of temporary or permanent station, to transportation of baggage and household effects as provided in subparagraph (A). The weight allowance for such cadets and midshipmen shall be 350 pounds.''

Pub. L. 102–25, §702(b)(3), struck out ''of this paragraph'' after ''subparagraph (A)''.

Subsec. (b)(2). Pub. L. 102–25, §702(b)(1), (2), struck out ''of this subsection'' after ''paragraph (1)'' and ''of this section'' after ''subsection (d)'' and ''subsection (g)(1)''.

Subsec. (c). Pub. L. 102–25, §702(b)(1), struck out ''of this section'' after ''subsections (a) and (b)''.

Subsec. (e). Pub. L. 102–25, §702(b)(1), struck out ''of this section'' after ''subsection (a) or (b)''.

Subsec. (g)(3). Pub. L. 102–25, §702(b)(2), struck out ''of this subsection'' after ''paragraph (2)''.

Subsec. (h)(1). Pub. L. 102–25, §702(b)(1), struck out ''of this section'' after ''subsection (d)'' and ''subsection (b)''.

Subsec. (i)(1). Pub. L. 102–25, §702(b)(1), struck out ''of this section'' after ''subsection (a) or (h)''.

Subsec. (k)(1). Pub. L. 102–25, §702(b)(1), struck out ''of this section'' after ''subsection (b)'' in two places.

1990—Subsec. (a)(2)(B)(v). Pub. L. 101–510, §503(b)(1), added cl. (v).

Subsec. (a)(4). Pub. L. 101–510, §503(b)(3), added par. (4).

Subsec. (b)(1)(C). Pub. L. 101–510, §1484(i)(9), inserted a period at end of footnote 2.

Subsec. (b)(1)(E). Pub. L. 101–510, §622(a), added subpar. (E).

Subsec. (g)(1). Pub. L. 101–510, §503(b)(2), added subpar. (C) and inserted ''involuntarily separated,'' after ''placed on that list,'' in concluding provisions.

Subsec. (k). Pub. L. 101–510, §621, revived amendment by Pub. L. 99–145, §614(a). See 1985 Amendment note below.

1989—Subsec. (b)(1)(C). Pub. L. 101–189, §623(b), inserted ''in pounds'' after ''weight allowance'' in provisions preceding table.

Subsec. (b)(1)(D). Pub. L. 101–189, § 623(a), added subpar. (D).

1988—Subsec. (b)(1)(A). Pub. L. 100–456, § 602(a)(1), substituted ''within the weight allowances listed in subparagraph (C)'' for ''within such weight allowances prescribed by the Secretaries concerned''.

Subsec. (b)(1)(C). Pub. L. 100–456, § 602(a)(2), added subpar. (C).

1987—Subsec. (h)(1)(B). Pub. L. 100–180 inserted ''or leased'' after ''owned''.

1986—Subsec. (a)(2)(A). Pub. L. 99–661, § 652(a), amended subpar. (A) generally, inserting cl. (i) designation, redesignating former cl. (i) as cl. (ii), and striking out former cl. (ii) which read as follows: ''is separated from the service or released from active duty under other than honorable conditions, as determined by the Secretary concerned''.

Subsec. (d). Pub. L. 99–661, § 620(a), inserted ''In the event a member's baggage and household effects exceed such maximum weight limitation, the Secretary concerned, if requested to do so by the member, may pay the costs for the nontemporary storage of that excess weight and collect the amount paid from the member's pay and allowances, or collect the amount in such other manner as the Secretary concerned determines appropriate.''

Subsec. (e). Pub. L. 99–661, § 617(a)(1), substituted ''(as the case may be), plus a per diem'' for '', as the case may be'' in introductory provisions.

Subsec. (f). Pub. L. 99–661, § 617(a)(2), inserted '', plus a per diem for the member's dependents,'' after ''member''.

Subsec. (g)(1). Pub. L. 99–661, § 617(a)(3), inserted '', and to a per diem for his dependents'' after ''404(c) of this title'' in concluding provisions.

Subsec. (h). Pub. L. 99–661, § 652(b), designated existing provisions as par. (1), amended first sentence generally, and added par. (2). Prior to amendment, first sentence read as follows: ''In the case of a member who is serving at a station outside the United States or in Hawaii or Alaska, if the Secretary concerned determines it to be in the best interests of the member or his dependents and the United States, he may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of his dependents, baggage, and household effects—

''(1) authorize the movement of the member's dependents, baggage, and household effects at that station to an appropriate location in the United States or its possessions and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, as authorized under subsection (a) or (b) of this section; and

''(2) authorize the transportation of one motor vehicle that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents to that location by means of transportation authorized under section 2634 of title 10.''

Subsec. (i). Pub. L. 99–433 struck out ''quarter'' after ''fiscal year'' in provisions preceding par. (1) and substituted ''fiscal year'' for ''quarter'' in pars. (1) and (2).

Subsec. (j). Pub. L. 99–661, § 617(a)(4), inserted ''plus a per diem for the member's dependents,'' after ''household effects''.

Subsecs. (*l*), (m). Pub. L. 99–661, § 620(b)(1), added subsec. (*l*) and redesignated former subsec. (*l*) as (m).

1985—Subsec. (a)(1). Pub. L. 99–145, § 612(b), substituted '', reimbursement therefor, or a monetary allowance in place of the cost of transportation, plus a per diem, for the member's dependents at rates prescribed by the Secretaries concerned'' for ''for his dependents, to reimbursement therefor, or to a monetary allowance in place of that transportation in kind at a rate to be prescribed''.

Subsec. (k). Pub. L. 99–145, § 1303(b)(9), substituted ''for providing transportation of household effects of members of the armed forces under subsection (b)'' for ''to carry out subsection (b)''.

Pub. L. 99–145, § 614, which designated existing provisions as par. (1), inserted ''or in which a member provides all or a part of the labor in connection with the transportation of the baggage and household effects of the member (including packing, crating, and loading)'', and added par. (2), expired Sept. 30, 1989, pursuant to section 614(b) of Pub. L. 99–145, set out as an Effective and Termination Dates of 1985 Amendment note below. Section 614(b) of Pub. L. 99–145 was repealed and the amendment made by section 614(a) of Pub. L. 99–145 was revived effective Oct. 1, 1989, by Pub. L. 101–510, § 621, set out as a Revival of Expired Amendment note below.

Subsec. (*l*). Pub. L. 99–145, § 617(a), added subsec. (*l*).

1983—Subsec. (b)(1). Pub. L. 98–94 designated existing provisions as subpar. (A), struck out provisions relating to a monetary allowance for transportation of a motor vehicle on change of permanent station, and added subpar. (B) relating to a monetary allowance for transportation of a motor vehicle on permanent change of station.

1982—Subsec. (j). Pub. L. 97–258 added subsec. (j).

Subsec. (k). Pub. L. 97–295 added subsec. (k).

1981—Subsec. (a). Pub. L. 97–60, § 121(b)(1), designated existing provisions as par. (1), inserted ''paragraph (2) of this subsection and'' before ''subsection (i) of this section'', and added pars. (2) and (3).

Subsec. (a)(1). Pub. L. 97–86, § 404(1), struck out ''and subsection (i) of this section'' after ''Except as provided in paragraph (2) of this subsection''.

Subsec. (b). Pub. L. 97–60, § 121(b)(2), designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2) of this subsection, in'' for ''In'', inserted provision relating to temporary storage in excess of 180 days and to monetary allowances in the case of the transportation of motor vehicles in cases in which transportation is authorized under section 2634 of title 10, and added par. (2).

Subsec. (g). Pub. L. 97–60, § 121(b)(3), designated existing provisions as par. (1) and existing pars. (1) and (2) as subpars. (A) and (B) thereof, struck out provisions following par. (1)(B), that, in any case in which the costs were in excess of those which would have been incurred if shipment had been made to his selected home, the member paid that excess cost, that if a member authorized to select a home under section 404(c) of this title accrued that right or any entitlement under this subsection but died before he exercised it, that right or entitlement accrued to and could be exercised by his surviving dependents, or his baggage and household effects could be shipped to the home of the person legally entitled thereto if there were no surviving dependents, and that, in any case in which the costs were in excess of those which would have been incurred if shipment had been made to the member's selected home, the surviving dependents or the person legally entitled to the baggage and household effects, as the case may be, paid that excess cost, and added pars. (2) and (3).

Subsec. (h). Pub. L. 97–86, § 404(2), substituted ''In the case of a member'' for ''Except as provided in subsection (i) of this section, in the case of a member''.

Subsec. (h)(2). Pub. L. 97–60, § 121(b)(4), substituted ''that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents'' for ''owned by the member and for his or his dependents' personal use''.

Subsec. (i). Pub. L. 97–86, § 404(3), substituted provisions requiring the Secretary, at the end of each fiscal year quarter, to submit to the Committees on Armed Services of the Senate and House of Representatives a report covering the number of dependents overseas receiving allowances or transportation for dependents under subsec. (a) or (h) of this section and the number of dependents overseas not authorized to receive such allowances or transportation for provisions that formerly had placed a numerical limit on the number of dependents overseas receiving allowances and transportation.

1980—Subsecs. (d)(2), (g)(2). Pub. L. 96–513 inserted references to separation pay in two places in subsec. (d)(2) and in two places in subsec. (g)(2).

1979—Subsec. (a). Pub. L. 96–107, §814(1), inserted provisions excepting subsec. (i) of this section from provisions of this subsection.

Subsec. (h). Pub. L. 96–107, §814(2), inserted provisions excepting subsec. (i) of this section from provisions of this subsection.

Subsec. (i). Pub. L. 96–107, §814(3), added subsec. (i).

1968—Subsec. (d)(2). Pub. L. 90–623 substituted ''90'' for ''ninety''.

1966—Subsec. (b). Pub. L. 89–718, §58(1), substituted ''change of temporary or permanent station'' for ''temporary or permanent change of station''.

Subsec. (d). Pub. L. 89–680, §1(2), extended authority permitting a one-year period for nontemporary storage of baggage and household effects under regulations for members being separated from the service who are confined to a hospital or are in its vicinity undergoing medical treatment to include members who are being retired, placed on the temporary retired disability list, discharged, or released from active duty, and expanded coverage to include members retired or placed on the temporary disability retired list under chapter 61 of title 10, members retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than ninety days, discharged with severance pay or released involuntarily from active duty with readjustment pay, and inserted provisions for payment of cost of storage by the member concerned in certain cases.

Subsec. (g). Pub. L. 89–718, §§58(2), 59, inserted ''is'' before ''placed'' in cl. (1) and substituted ''member's'' for ''members' ''.

Pub. L. 89–680, §1(3), inserted, in authorization for transportation for dependents, baggage, and household effects to the home selected under section 404(c) of this title, provisions limiting the entitlement to not later than one year from the date of retirement, placement on the list, discharge, or release, except as prescribed in regulations by the Secretaries concerned.

1965—Subsec. (h)(2). Pub. L. 89–101 substituted ''by means of transportation authorized under section 2634 of title 10'' for ''on a vessel owned, leased, or chartered by the United States or by privately owned American shipping services''.

1964—Subsec. (h). Pub. L. 88–431 added subsec. (h).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VI, §654(b), Jan. 6, 2006, 119 Stat. 3313, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2006, and apply with respect to an order in connection with a change of temporary or permanent station issued on or after that date.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VI, §633(b), Dec. 28, 2001, 115 Stat. 1144, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to the reimbursement of members of the uniformed services for mandatory pet quarantine fees incurred in connection with the mandatory quarantine of a household pet underway on the date of the enactment of this Act [Dec. 28, 2001] or beginning on or after that date.''

Pub. L. 107–107, div. A, title VI, §634(b), Dec. 28, 2001, 115 Stat. 1144, provided that: ''The amendments made by this section [amending this section] shall take effect on January 1, 2003, and apply with respect to an order in connection with a change of temporary or permanent station issued on or after that date.''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title VI, §642(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–161, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect October 1, 2000.''

EFFECTIVE DATE OF 1998 AMENDMENT

For provisions relating to the applicability of amendment by section 653(b) of Pub. L. 105–261, see section 653(e) of Pub. L. 105–261, set out as a note under section 2634 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 603(d)(1)(B) of Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 368(b) of Pub. L. 104–201 effective Apr. 1, 1997, see section 368(c) of Pub. L. 104–201, set out as a note under section 2634 of Title 10, Armed Forces.

Section 621(b) of Pub. L. 104–201 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1997.''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 1182(d)(1) of Pub. L. 103–160 provided in part that the amendment made by that section is effective as of Dec. 19, 1991.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 622(b) of Pub. L. 101–510 provided that: ''The amendment made by subsection (a) [amending this section] shall be applicable to baggage and household effects transported on or after the date of the enactment of this Act [Nov. 5, 1990].''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 623(c) of Pub. L. 101–189 provided that: ''The authority provided in subparagraph (D) [37 U.S.C. 406(b)(1)(D)], as added by subsection (a), shall apply with respect to the transportation of baggage and household effects occurring after June 30, 1989.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 602(b) of Pub. L. 100–456 provided that: ''The weight allowances in section 406(b)(1)(C) of title 37, United States Code (as added by subsection (a)), shall apply with respect to transportation of baggage and household effects occurring after June 30, 1989.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 617(b) of Pub. L. 99–661 provided that: ''The amendments made by subsection (a) [amending this section] shall apply to travel performed after the date of the enactment of this Act [Nov. 14, 1986].''

Section 620(c) of Pub. L. 99–661 provided that:

''(1) The amendment made by subsection (a) [amending this section] shall apply to members whose baggage and household goods enter nontemporary storage on or after the date of the enactment of this Act [Nov. 14, 1986].

''(2) The amendments made by subsection (b) [amending this section and section 2634 of Title 10, Armed Forces] shall apply only with respect to members

whose dependents are unable to accompany them to an overseas permanent duty station because of circumstances arising on or after the date of the enactment of this Act [Nov. 14, 1986].''

Section 652(e)(1), (2) of Pub. L. 99–661 provided that:

''(1) The amendment made by subsection (a) [amending this section] shall apply only with respect to members discharged or released from active duty on or after the date of the enactment of this Act [Nov. 14, 1986].

''(2)(A) The amendments made by subsection (b) [amending this section] shall apply with respect to dependents about whom a determination by the Secretary concerned is made on or after the date of the enactment of this Act [Nov. 14, 1986].

''(B) In the case of a member described in section 406(h)(2)(c) of such title 37 (as added by subsection (b)), the benefits provided for the dependents of the member shall accrue on the date that the sentence is approved under section 860 of title 10, United States Code.''

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Amendment by section 612(b) of Pub. L. 99–145 applicable to travel performed after Sept. 30, 1985, see section 612(c) of Pub. L. 99–145, set out as an Effective Date of 1985 Amendment note under section 404 of this title.

Section 614(b) of Pub. L. 99–145, which provided that the amendments by section 614(a) of Pub. L. 99–145, amending this section, were to expire Sept. 30, 1989, was repealed by Pub. L. 101–510, div. A, title VI, § 621, Nov. 5, 1990, 104 Stat. 1580. See Revival of Expired Amendment note below.

Section 617(b) of Pub. L. 99–145 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to orders to change a permanent station that are effective after September 30, 1985.''

EFFECTIVE DATE OF 1981 AMENDMENT

Enactment of subsec. (a)(3) and amendment of subsec. (b)(1) by Pub. L. 97–60 effective Oct. 14, 1981, enactment of subsecs. (a)(2) and (b)(2) and amendment of subsec. (h)(2) effective Nov. 1, 1981, and applicable to members who are separated from the service or released from active duty on or after Nov. 1, 1981, and enactment of subsec. (g)(2) and (3) effective Nov. 1, 1981, and applicable to members who are retired, placed on the temporary disability retired list, discharged, or involuntarily released on or after Nov. 1, 1981, except that such enactment not to apply to any member who before Nov. 1, 1981, had completed eighteen years of active service, see section 121(d) of Pub. L. 97–60, set out as a note under section 404 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1965 AMENDMENT; REIMBURSEMENT OF EXPENSES

Amendment by Pub. L. 89–101 effective May 1, 1965, and personal expenses for transportation of motor vehicles transported after Apr. 30, 1965, and before July 30, 1965, reimbursable, see section 3 of Pub. L. 89–101, set out as a note under section 2634 of Title 10, Armed Forces.

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), 551(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.

STORAGE OF HOUSEHOLD EFFECTS

Pub. L. 101–510, div. A, title V, § 503(c), Nov. 5, 1990, 104 Stat. 1558, as amended by Pub. L. 103–160, div. A, title V, § 561(*l*)(2), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 105–261, div. A, title V, § 561(f), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106–398, § 1 [[div. A], title V, § 571(f)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134, provided that:

''(1) The Secretary of a military department shall exercise the authority provided by section 406 of title 37, United States Code, to provide nontemporary storage of baggage and household effects for a period not longer than one year in the case of individuals who are involuntarily separated during the period beginning on October 1, 1990, and ending on December 31, 2001.

''(2) For purposes of this subsection, the term 'involuntarily separated' has the meaning given that term in section 1141 of title 10, United States Code.''

REVIVAL OF EXPIRED AMENDMENT

Section 621 of Pub. L. 101–510 provided that: ''Subsection (b) of section 614 of the Department of Defense Authorization Act, 1986 [Pub. L. 99–145, set out as an Effective and Termination Dates of 1985 Amendment note above] (37 U.S.C. note) is repealed. The amendments made by subsection (a) of that section [amending this section] are hereby revived effective as of October 1, 1989.''

PROHIBITION ON RETROACTIVE PAYMENTS UNDER 1985 AMENDMENT

Section 614(c) of Pub. L. 99–145 prohibited payment of allowances to members by virtue of the amendments made by subsection (a), amending this section, in connection with transportation of baggage and household effects provided the member before Nov. 8, 1985.

ALLOWANCES FOR LABOR IN CONNECTION WITH TRANSPORTATION OF MEMBERS' BAGGAGE AND EFFECTS; REPORT TO CONGRESS

Section 614(d) of Pub. L. 99–145 required Secretary of Defense to submit a report to Congress not later than Sept. 30, 1988, regarding the operation of any program carried out by the military departments under which payment of a monetary allowance is made to a member who provides all or a part of the labor in connection with the transportation of the baggage and household effects of the member and to include recommendations for legislative action the Secretary considers appropriate.

MONETARY ALLOWANCE IN LIEU OF TRANSPORTATION OF HOUSEHOLD EFFECTS

Pub. L. 94–212, title VII, § 747, Feb. 9, 1976, 90 Stat. 176, which provided that appropriations available for transportation of household goods of members of armed forces under subsec. (b) of this section shall be available as a monetary allowance for such transportation, payable in advance under regulations of the Secretary in an amount which would provide savings to the Government when compared with the total costs which would otherwise have been incurred under subsec. (b) of this section, was repealed and reenacted as subsec. (k) of this section by Pub. L. 97–295, §§ 3(4), 6(b), Oct. 12, 1982, 96 Stat. 1303, 1314. Subsec. (k) was subsequently redesignated (j) and repealed.

FUNERAL TRANSPORTATION AND LIVING EXPENSE BENEFITS; VIETNAM CONFLICT

Pub. L. 93–257, Mar. 29, 1974, 88 Stat. 53, entitled the ''Funeral Transportation and Living Expense Benefits

Act of 1974'', authorized the Secretary of Defense to provide funeral transportation and living expenses benefits for the family of any deceased member of the Armed Forces who died while classified as a prisoner of war or as missing in action during the Vietnam conflict and whose remains were returned to the United States after January 27, 1973, prior to repeal by Pub. L. 107–107, div. A, title VI, § 638(b)(3), Dec. 28, 2001, 115 Stat. 1148. See section 411f(d) of this title.

### § 406a. Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified

Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances under section 404 of this title, and to transportation of his dependents, baggage, and household effects under sections 406 and 409 of this title, if otherwise qualified, for travel performed before the effective date of orders that direct him to make a change of station and that are later—

(1) canceled, revoked, or modified to direct him to return to the station from which he was being transferred; or

(2) modified to direct him to make a different change of station.

(Added Pub. L. 88–238, § 1(1), Dec. 23, 1963, 77 Stat. 475.)

EFFECTIVE DATE; LIMITATIONS

Section 2 of Pub. L. 88–238 provided that: ''This Act [enacting this section] becomes effective on October 1, 1949. Any member or former member of the uniformed services who, after September 30, 1949, but before the date of enactment of this Act [Dec. 23, 1963], has not been paid, or has repaid the United States, an amount to which he otherwise would have been entitled had section 1 of this Act [enacting this section] been in effect during that period is entitled to be paid or repaid that amount, if the payment or repayment is otherwise proper and he applies for the payment or repayment within one year after the date of enactment of this Act.''

APPROPRIATIONS

Section 3 of Pub. L. 88–238 provided that: ''Any appropriations available to the departments concerned for the pay and allowances of members of the uniformed services are available for payments under this Act [enacting this section].''

### § 406b. Travel and transportation allowances: members of the uniformed services attached to a ship overhauling or inactivating

(a) Under regulations prescribed by the Secretary concerned, a member of the uniformed services who is on permanent duty aboard a ship which is being overhauled or inactivated away from its home port and whose dependents are residing at the home port of the ship is entitled to transportation, transportation in kind, reimbursement for personally procured transportation, or an allowance for transportation as provided in section 404(d)(3) of this title for round-trip travel from the port of overhaul or inactivation to the home port on or after after the thirty-first calendar day, and every sixtieth calendar day after the thirty-first calendar day after the date on which the ship enters the overhaul or inactivation port or after the date on which the member becomes permanently attached to the ship, whichever date is later. However, in no event shall the amount of reimbursement for personally procured transportation or allowance for transportation exceed the cost of Government-procured commercial round-trip air travel.

(b) Transportation in kind, reimbursement for personally procured transportation, or a monetary allowance in place of the cost of transportation as provided in section 404(d)(1) of this title may be provided, in lieu of the member's entitlement to transportation, for the member's dependents from the location that was the home port of the ship before commencement of overhaul or inactivation to the port of overhaul or inactivation. The total reimbursement for transportation for the member's dependents may not exceed the cost of Government-procured commercial round-trip travel.

(c) In any case in which a member of the uniformed services is assigned to permanent duty aboard a ship that undergoes a change of home port to the overhaul or inactivation port, the dependents of the member may be provided transportation allowances prescribed in subsections (a) and (b) in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.

(d) Section 421 of this title does not apply with respect to transportation or allowances provided under this section.

(Added Pub. L. 91–210, § 1(1), Mar. 13, 1970, 84 Stat. 53; amended Pub. L. 93–170, Nov. 29, 1973, 87 Stat. 689; Pub. L. 96–513, title V, § 516(11), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 97–22, § 11(b)(3)(A), July 10, 1981, 95 Stat. 138; Pub. L. 99–145, title VI, § 616(a), (c)(1), Nov. 8, 1985, 99 Stat. 641; Pub. L. 100–26, § 8(d)(7), Apr. 21, 1987, 101 Stat. 285; Pub. L. 100–180, div. A, title XII, § 1233(a)(3), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 101–189, div. A, title VI, § 624(b), Nov. 29, 1989, 103 Stat. 1448; Pub. L. 102–484, div. A, title X, § 1054(a)(5), Oct. 23, 1992, 106 Stat. 2502.)

AMENDMENTS

1992—Subsec. (d). Pub. L. 102–484 substituted ''Section 421'' for ''Section 420''.

1989—Subsec. (c). Pub. L. 101–189 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''A member of the uniformed services on permanent duty aboard a ship which undergoes a change of home port to the overhaul or inactivation port and the member's dependents may be provided the transportation allowances prescribed in subsections (a) and (b) of this section in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.''

1987—Subsecs. (a), (b). Pub. L. 100–26, as amended by Pub. L. 100–180, substituted ''round-trip'' for ''round trip'' wherever appearing in subsec. (a) and ''round-trip'' for ''roundtrip'' in subsec. (b).

1985—Pub. L. 99–145, § 616(c)(1), struck out ''away from home port'' in section catchline.

Subsecs. (a) to (d). Pub. L. 99–145, § 616(a), designated existing provisions as subsec. (a), substituted ''calendar day, and every sixtieth calendar day after the thirty-first calendar day'' for '', ninety-first, and one hundred and fifty-first calendar day'', and added subsecs. (b) to (d).

1981—Pub. L. 97–22 substituted ''uniformed services'' for ''Uniformed Services'' in section catchline.

1980—Pub. L. 96–513 substituted ''uniformed services'' for ''Uniformed Services'', ''title'' for ''chapter'', and ''later. However,'' for ''later: *Provided, however*, That''.

1973—Pub. L. 93–170 substituted ''overhauling or inactivating'' for ''overhauling'' in section catchline, and ''overhauled or inactivated'' and ''overhaul or inactivation'' for ''overhauled'' and ''overhaul'' respectively, wherever appearing in text.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 1233(a)(3) of Pub. L. 100–180 applicable as if included in the enactment of the Defense Technical Corrections Act of 1987, Pub. L. 100–26, see section 1233(c) of Pub. L. 100–180, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 616(b) of Pub. L. 99–145 provided that: ''The travel allowances authorized by the amendments made by this section [amending this section] are payable only for travel that commences after September 30, 1985, but may be paid for members assigned to vessels being overhauled or inactivated away from home port on the date of the enactment of this Act [Nov. 8, 1985].''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

## § 406c. Travel and transportation allowances: members assigned to a vessel under construction

(a) ALLOWANCE AUTHORIZED.—(1) Under regulations prescribed by the Secretary concerned, a member of the uniformed services who is assigned to permanent duty aboard a ship that is under construction at a location other than—

(A) the designated home port of the ship; or

(B) the area where the dependents of the member are residing,

is entitled to transportation, or an allowance for transportation under section 404(d)(3) of this title, for round-trip travel from the port of construction to either of those locations as provided in paragraph (2).

(2) A member referred to in paragraph (1) shall be entitled to such transportation or allowance on or after the thirty-first day (and every sixtieth day after the thirty-first day) after the later of—

(A) the date on which the ship enters the construction port; and

(B) the date on which the member becomes permanently assigned to the ship.

(3) The amount of reimbursement for personally procured transportation or the allowance for transportation under this subsection may not exceed the cost of Government-procured commercial round-trip air travel.

(b) DEPENDENTS TRAVEL.—(1) In lieu of the entitlement of a member of the uniformed services to transportation under subsection (a), the Secretary concerned may provide transportation in kind, reimbursement for personally procured transportation, or a monetary allowance in place of the cost of transportation as provided in section 404(d)(1) of this title for the travel of the dependents of the member from the designated home port of the ship, or the area where the dependents of the member are residing, to the port of construction.

(2) The total reimbursement for transportation for the member's dependents under paragraph (1) may not exceed the cost of Government-procured commercial round-trip travel.

(c) CHANGE OF HOME PORT.—In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the port at which the ship is being constructed, the dependents of such member may be provided the transportation allowances prescribed in subsections (a) and (b) in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.

(d) APPLICATION OF OTHER LAW.—Section 420 of this title does not apply with respect to transportation or allowances provided under this section.

(Added Pub. L. 101–189, div. A, title VI, § 624(a)(1), Nov. 29, 1989, 103 Stat. 1447; amended Pub. L. 102–190, div. A, title VI, § 622, Dec. 5, 1991, 105 Stat. 1378.)

AMENDMENTS

1991—Subsec. (b)(1). Pub. L. 102–190 substituted ''the designated home port of the ship, or the area where the dependents of the member are residing,'' for ''the location that was the home port of the ship before commencement of construction''.

## § 407. Travel and transportation allowances: dislocation allowance

(a) ELIGIBILITY FOR PRIMARY DISLOCATION ALLOWANCE.—(1) Under regulations prescribed by the Secretary concerned, a member of a uniformed service described in paragraph (2) is entitled to a primary dislocation allowance at the rate determined under subsection (c) for the member's pay grade and dependency status.

(2) A member of the uniformed services referred to in paragraph (1) is any of the following:

(A) A member who makes a change of permanent station and the member's dependents actually make an authorized move in connection with the change, including a move by the dependents—

(i) to join the member at the member's duty station after an unaccompanied tour of duty when the member's next tour of duty is an accompanied tour at the same station; and

(ii) to a location designated by the member after an accompanied tour of duty when the member's next tour of duty is an unaccompanied tour at the same duty station.

(B) A member whose dependents actually move pursuant to section 405a(a), 406(e), 406(h), or 554 of this title.

(C) A member whose dependents actually move from their place of residence under circumstances described in section 406a of this title.

(D) A member who is without dependents and—

(i) actually moves to a new permanent station where the member is not assigned to quarters of the United States; or

(ii) actually moves from a place of residence under circumstances described in section 406a of this title.

(E) A member who is ordered to move in connection with the closure or realignment of a

military installation and, as a result, the member's dependents actually move or, in the case of a member without dependents, the member actually moves.

(F) A member whose dependents actually move from the member's place of residence in connection with the performance of orders for the member to report to the member's first permanent duty station if the move—

(i) is to the permanent duty station or a designated location; and

(ii) is an authorized move.

(G) Each of two members married to each other who—

(i) is without dependents;

(ii) actually moves with the member's spouse to a new permanent duty station; and

(iii) is assigned to family quarters of the United States at or in the vicinity of the new duty station.

(3) If a primary dislocation allowance is paid under this subsection to a member described in subparagraph (C) or (D)(ii) of paragraph (2), the member is not entitled to another dislocation allowance as a member described in subparagraph (A) or (E) of such paragraph in connection with the same move.

(4) If a primary dislocation allowance is payable to two members described in paragraph (2)(G) who are married to each other, the amount of the allowance payable to such members shall be the amount otherwise payable under this subsection to the member in the higher pay grade, or to either member if both members are in the same pay grade. The allowance shall be paid jointly to both members.

(b) SECONDARY ALLOWANCE AUTHORIZED UNDER CERTAIN CIRCUMSTANCES.—(1) Under regulations prescribed by the Secretary concerned, whenever a member is entitled to a primary dislocation allowance under subsection (a) as a member described in paragraph (2)(C) or (2)(D)(ii) of such subsection, the member is also entitled to a secondary dislocation allowance at the rate determined under subsection (c) for the member's pay grade and dependency status if, subsequent to the member or the member's dependents actually moving from their place of residence under circumstances described in section 406a of this title, the member or member's dependents complete that move to a new location and then actually move from that new location to another location also under circumstances described in section 406a of this title.

(2) If a secondary dislocation allowance is paid under this subsection, the member is not entitled to a dislocation allowance as a member described in paragraph (2)(A) or (2)(E) of subsection (a) in connection with those moves.

(c) DISLOCATION ALLOWANCE RATES.—(1) The amount of the dislocation allowance to be paid under this section to a member shall be based on the member's pay grade and dependency status at the time the member becomes entitled to the allowance, except that the Secretary concerned may not differentiate between members with dependents in pay grades E–1 through E–5.

(2) The initial rate for the dislocation allowance, for each pay grade and dependency status, shall be equal to the rate in effect for that pay grade and dependency status on December 31, 1997, as adjusted by the average percentage increase in the rates of basic pay for calendar year 1998. Effective on the same date that the monthly rates of basic pay for members are increased for a subsequent calendar year, the Secretary of Defense shall adjust the rates for the dislocation allowance for that calendar year by the percentage equal to the average percentage increase in the rates of basic pay for that calendar year.

(d) FISCAL YEAR LIMITATION; EXCEPTIONS.—(1) A member is not entitled to more than one dislocation allowance under this section during a fiscal year unless—

(A) the Secretary concerned finds that the exigencies of the service require the member to make more than one change of permanent station during the fiscal year;

(B) the member is ordered to a service school as a change of permanent station;

(C) the member's dependents are covered by section 405a(a), 406(e), 406(h), or 554 of this title; or

(D) subparagraph (C) or (D)(ii) of subsection (a)(2) or subsection (b) apply with respect to the member or the member's dependents.

(2) This subsection does not apply in time of national emergency or in time of war.

(e) FIRST OR LAST DUTY.—A member is not entitled to payment of a dislocation allowance under this section when the member is ordered from the member's home to the member's first duty station (except as provided in subsection (a)(2)(F)) or from the member's last duty station to the member's home.

(f) PARTIAL DISLOCATION ALLOWANCE.—(1) Under regulations prescribed by the Secretary concerned, a member ordered to occupy or vacate family housing provided by the United States to permit the privatization or renovation of housing or for any other reason (other than pursuant to a permanent change of station) may be paid a partial dislocation allowance of $500.

(2) Effective on the same date that the monthly rates of basic pay for all members are increased under section 1009 of this title or another provision of law, the Secretary of Defense shall adjust the rate of the partial dislocation allowance authorized by this subsection by the percentage equal to the average percentage increase in the rates of basic pay.

(3) Subsections (c) and (d) do not apply to the partial dislocation allowance authorized by this subsection.

(g) RULE OF CONSTRUCTION.—For purposes of this section, a member whose dependents may not make an authorized move in connection with a change of permanent station is considered a member without dependents.

(h) ADVANCE PAYMENT.—A dislocation allowance payable under this section may be paid in advance.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 474; Pub. L. 89–26, §1(3), (4), May 22, 1965, 79 Stat. 117; Pub. L. 89–718, §60, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90–207, §1(4), Dec. 16, 1967, 81 Stat. 651; Pub. L. 97–60, title I, §124, Oct. 14, 1981, 95 Stat. 1003; Pub. L. 99–145, title VI, §611(a), Nov. 8, 1985, 99

Stat. 639; Pub. L. 99–661, div. A, title VI, § 619(a), Nov. 14, 1986, 100 Stat. 3881; Pub. L. 100–180, div. A, title VI, § 613, Dec. 4, 1987, 101 Stat. 1093; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title VI, § 624, Feb. 10, 1996, 110 Stat. 363; Pub. L. 104–201, div. A, title VI, § 622(a), Sept. 23, 1996, 110 Stat. 2548; Pub. L. 105–85, div. A, title VI, § 632(a), Nov. 18, 1997, 111 Stat. 1795; Pub. L. 106–398, § 1 [[div. A], title VI, § 644], Oct. 30, 2000, 114 Stat. 1654, 1654A–161; Pub. L. 107–107, div. A, title VI, §§ 635(a), (b), 636(a), Dec. 28, 2001, 115 Stat. 1144, 1145.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 407(a) ..... | 37:253(c) (4th sentence). | Oct. 12, 1949, ch. 681, § 303(c) (4th through 8th sentences); added Mar. 31, 1955, ch. 20, § 2(12), 69 Stat. 21. |
| 407(b) ..... | 37:253(c) (5th, 6th, and 7th, sentences). | |
| 407(c) ..... | 37:253(c) (8th sentence). | |

In subsection (a), the words ''Except as provided in subsections (b) and (c) of this section'' and ''for one month'' are inserted for clarity. The words ''make an authorized move'' are substituted for the words ''are authorized to move and actually move''.

In subsection (b), the words ''is not entitled to . . . more than one'' are substituted for the words ''shall be entitled . . . for not more than one''. The words ''the payment of'' and ''for not more than one permanent change of station'' are omitted as surplusage. Clauses (1) and (2) are substituted for the last 29 words of the 5th and 6th sentences of section 253(c) of existing title 37.

AMENDMENTS

2001—Subsec. (a)(2)(F), (G). Pub. L. 107–107, § 635(a)(1), added subpars. (F) and (G).

Subsec. (a)(4). Pub. L. 107–107, § 635(a)(2), added par. (4).

Subsec. (e). Pub. L. 107–107, § 635(b), inserted ''(except as provided in subsection (a)(2)(F))'' after ''first duty station''.

Subsecs. (f) to (h). Pub. L. 107–107, § 636(a), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

2000—Subsec. (c)(1). Pub. L. 106–398 inserted before period at end '', except that the Secretary concerned may not differentiate between members with dependents in pay grades E–1 through E–5''.

1997—Pub. L. 105–85 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to dislocation allowances for members of the uniformed services.

1996—Subsec. (a). Pub. L. 104–201 substituted ''two and one-half months'' for ''two months'' in introductory provisions.

Pub. L. 104–106, § 624(b)(1), in concluding provisions, substituted ''paragraph (3) or (4)(B)'' for ''clause (3) or (4)(B)'' and ''paragraph (1) or (5)'' for ''clause (1)''.

Subsec. (a)(5). Pub. L. 104–106, § 624(a), added par. (5).

Subsec. (b). Pub. L. 104–106, § 624(b)(2), substituted ''paragraph (3) or (4)(B) of subsection (a)'' for ''subsection (a)(3) or (a)(4)(B)'' and ''paragraph (1) or (5) of subsection (a)'' for ''subsection (a)(1)''.

1991—Pub. L. 102–25 struck out ''of this section'' wherever appearing in subsecs. (a) to (c).

1987—Subsec. (f). Pub. L. 100–180 added subsec. (f).

1986—Pub. L. 99–661 amended section generally. Prior to amendment, section read as follows:

''(a) Except as provided by subsections (b) and (c) of this section, under regulations prescribed by the Secretary concerned, a member of a uniformed service—

''(1) whose dependents make an authorized move in connection with his change of permanent station;

''(2) whose dependents are covered by section 405a(a) of this title; or

''(3) without dependents, who is transferred to a permanent station where he is not assigned to quarters of the United States;

is entitled to a dislocation allowance equal to his basic allowance for quarters for two months as provided for a member of his pay grade and dependency status in section 403 of this title. For the purposes of this subsection, a member whose dependents may not make an authorized move in connection with a change of permanent station is considered a member without dependents. An allowance payable under this section may be paid in advance.

''(b) A member is not entitled to more than one dislocation allowance during a fiscal year unless—

''(1) the Secretary concerned finds that the exigencies of the service require the member to make more than one such change of station during that fiscal year;

''(2) the member is ordered to a service school as a change of permanent station; or

''(3) the member's dependents are covered by section 405a(a) of this title.

This subsection does not apply in time of national emergency declared after April 1, 1955, or in time of war.

''(c) A member is not entitled to payment of a dislocation allowance when ordered from his home to his first duty station or from his last duty station to his home.''

1985—Subsec. (a). Pub. L. 99–145 substituted ''two months'' for ''one month'' in first sentence.

1981—Subsec. (a). Pub. L. 97–60 inserted sentence in provision following cl. (3) authorizing the payment in advance of an allowance payable under this section.

1967—Subsec. (a). Pub. L. 90–207 authorized a dislocation allowance for a member of a uniformed service without dependents who is transferred to a permanent station where he is not assigned to quarters of the United States and for dislocation allowance purposes deemed a member whose dependents may not make an authorized move in connection with a change of permanent station to be a member without dependents.

1966—Subsecs. (a), (b)(2). Pub. L. 89–718 substituted ''change of permanent station'' for ''permanent change of station''.

1965—Subsec. (a). Pub. L. 89–26, § 1(3), authorized a dislocation allowance for a member of the uniformed service whose dependents are covered by section 405a(a) of this title.

Subsec. (b)(3). Pub. L. 89–26, § 1(4), added cl. (3).

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VI, § 635(c), Dec. 28, 2001, 115 Stat. 1145, provided that: ''The amendments made by this section [amending this section] shall apply with respect to an order issued on or after January 1, 2002, in connection with a change of permanent station or for a member of the uniformed services to report to the member's first permanent duty station.''

Pub. L. 107–107, div. A, title VI, § 636(b), Dec. 28, 2001, 115 Stat. 1145, provided that: ''Subsection (f) [of section 407] of title 37, United States Code, as added by subsection (a)(2), shall apply with respect to an order to move for a member of a uniformed service that is issued on or after the date of the enactment of this Act [Dec. 28, 2001].''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 632(b) of Pub. L. 105–85 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1998.''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 622(b) of Pub. L. 104–201 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1997.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 619(b) of Pub. L. 99–661 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 14, 1986] and shall apply only to moves which commence on or after that date.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 611(b) of Pub. L. 99–145 provided that: ''The amendment made by this section [amending this section] shall apply to moves begun after September 30, 1985.''

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–26 effective Feb. 1, 1965, see section 2 of Pub. L. 89–26, as amended, set out as an Effective Date note under section 405a of this title.

## § 408. Travel and transportation allowances: travel within limits of duty station

(a) A member of a uniformed service may be directed, by regulations of the head of the department or agency in which he is serving, to procure transportation necessary for conducting official business of the United States within the limits of his station. Expenses so incurred by the member for train, bus, streetcar, taxicab, ferry, bridge, and similar fares and tolls, or for the use of privately owned vehicles at a fixed rate a mile plus parking fees, shall be defrayed by the department or agency under which he is serving, or the member is entitled to be reimbursed for the expense.

(b)(1) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who performs emergency duty described in paragraph (2) is entitled to travel and transportation allowances under section 404 of this title for that duty.

(2) The emergency duty referred to in paragraph (1) is duty that—

(A) is performed by a member under emergency circumstances that threaten injury to property of the Federal Government or human life;

(B) is performed at a location within the limits of the member's station (other than at the residence or normal duty location of the member);

(C) is performed pursuant to the direction of competent authority; and

(D) requires the member's use of overnight accommodations.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 475; Pub. L. 99–145, title VI, § 619(a), Nov. 8, 1985, 99 Stat. 642; Pub. L. 100–26, § 8(d)(6), Apr. 21, 1987, 101 Stat. 285; Pub. L. 102–190, div. A, title VI, § 623, Dec. 5, 1991, 105 Stat. 1379.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 408 ..... | 40:491(m). | June 30, 1949, ch. 288, § 211(m); added Sept. 1, 1954, ch. 1211, § 2 (13th par.), 68 Stat. 1126. |

The words ''(as defined in the Career Compensation Act of 1949, as amended)'' and ''so directed'' are omitted as surplusage. The words ''official business of the United States'' are substituted for the words ''official Government business''.

AMENDMENTS

1991—Pub. L. 102–190 designated existing provisions as subsec. (a) and added subsec. (b).

1987—Pub. L. 100–26 substituted ''privately owned'' for ''privately-owned''.

1985—Pub. L. 99–145 inserted ''plus parking fees'' after ''fixed rate a mile''.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 619(b) of Pub. L. 99–145 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to parking fees incurred after September 30, 1985.''

## § 408a. Travel and transportation allowances: inactive duty training outside of normal commuting distances

(a) ALLOWANCE AUTHORIZED.—The Secretary concerned may reimburse an eligible member of the Selected Reserve of the Ready Reserve for travel expenses for travel to an inactive duty training location to perform inactive duty training when the member is required to commute a distance from the member's permanent residence to the inactive duty training location that is outside the normal commuting distance (as determined under the regulations prescribed under subsection (d)) for that commute.

(b) ELIGIBLE MEMBERS.—To be eligible for reimbursement under subsection (a), a member of the Selected Reserve of the Ready Reserve must be—

(1) qualified in a skill designated as critically short by the Secretary concerned;

(2) assigned to a unit of the Selected Reserve with a critical manpower shortage or in a pay grade in the member's reserve component with a critical manpower shortage; or

(3) assigned to a unit or position that is disestablished or relocated as a result of defense base closure or realignment or another force structure reallocation.

(c) MAXIMUM REIMBURSEMENT AMOUNT.—The amount of reimbursement provided a member under subsection (a) for each round trip to a training location may not exceed $300.

(d) REGULATIONS.—The Secretary concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.

(e) TERMINATION.—No reimbursement may be provided under this section for travel that occurs after December 31, 2010.

(Added Pub. L. 110–181, div. A, title VI, § 631(a)(1), Jan. 28, 2008, 122 Stat. 153.)

EFFECTIVE DATE

Pub. L. 110–181, div. A, title VI, § 631(b), Jan. 28, 2008, 122 Stat. 154, provided that: ''No reimbursement may be provided under section 408a of title 37, United States Code, as added by subsection (a), for travel costs incurred before the date of the enactment of this Act [Jan. 28, 2008].''

## § 409. Travel and transportation allowances: house trailers and mobile homes

(a)(1) A member, or in the case of a member's death, the member's dependent, who would otherwise be entitled to transportation of baggage and household effects under section 406 of this title, may be provided transportation of a house trailer or mobile home dwelling within the continental United States, within Alaska, or between the continental United States and Alaska (or reimbursement for such transportation), if the house trailer or mobile home dwelling is intended for use as a residence by such member or dependent. Such transportation may be limited to such modes and maximum costs as may be prescribed by regulations under subsection (d).

(2) Except as provided in subsection (c), transportation of a house trailer or mobile home dwelling under paragraph (1) is in place of the transportation of baggage and household effects the member or member's dependent would otherwise be entitled to have provided.

(3) The cost of transportation of a house trailer or mobile home dwelling under paragraph (1) may not be more than the total cost of transportation (including packing, pick-up, line-haul or drayage, delivery, and unpacking) of baggage and household effects of the member or dependent having the maximum weight authorized for the member or dependent under regulations prescribed by the Secretary concerned.

(4) A house trailer or mobile home dwelling in transit under this section may be stored up to 180 days in accordance with regulations prescribed by the Secretary concerned.

(b) Any payment authorized by this section may be made in advance of the transportation concerned.

(c) A member or member's dependent who is entitled to the transportation of baggage or household effects from a place inside the continental United States or Alaska to a place outside the continental United States or Alaska, or from a place outside the continental United States or Alaska to a place inside the continental United States or Alaska, may be provided the transportation of a house trailer or mobile dwelling under this section, but the total cost to the Government of the transportation of baggage and household effects and the transport of a house trailer or mobile home dwelling may not exceed the cost of transporting baggage and household effects of the member or dependent having the maximum weight authorized for the member or dependent under regulations prescribed by the Secretary concerned.

(d) The Secretaries concerned shall prescribe regulations to carry out this section.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 475; Pub. L. 88–406, Aug. 7, 1964, 78 Stat. 383; Pub. L. 89–718, §§ 61, 62, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90–246, Jan. 2, 1968, 81 Stat. 782; Pub. L. 96–342, title VIII, § 808(a)(1), Sept. 8, 1980, 94 Stat. 1096; Pub. L. 100–26, § 8(e)(6), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 107–314, div. A, title VI, § 654(b)(3), Dec. 2, 2002, 116 Stat. 2582.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 409 ..... | 37:253(c) (12th sentence). | Oct. 12, 1949, ch. 681, § 303(c) (12th sentence); added Mar. 31, 1955, ch. 20, § 2(13), 69 Stat. 22; Mar. 17, 1958, Pub. L. 85–347, 72 Stat. 37; restated Oct. 4, 1961, Pub. L. 87–374, 75 Stat. 804. |

The words ''the United States, except in Hawaii or Alaska,'' are substituted for the words ''the continental United States'' to conform to the definition of United States in section 101(1) of this revised title and to reflect the opinion of the Comptroller General in B–139624, June 29, 1959, that Alaska was not included within those words. The words ''an agent of the United States'' are substituted for the words ''the Government'', for clarity. The words ''United States'' are substituted for the word ''Government''. The words ''of the uniformed services'' are omitted as surplusage in view of the definition of member in section 101(23) of this revised title.

AMENDMENTS

2002—Subsec. (e). Pub. L. 107–314 struck out subsec. (e) which read as follows: ''In this section, the term 'continental United States' means the 48 contiguous States and the District of Columbia.''

1991—Subsec. (a)(1) to (3). Pub. L. 102–25 struck out ''of this section'' and ''of this subsection'' wherever appearing.

1987—Subsec. (e). Pub. L. 100–26 inserted ''the term'' after ''In this section,''.

1980—Pub. L. 96–342 completely revised and expanded provisions covering the travel and transportation allowances for the movement of house trailers and mobile homes, changing the structure of the section from a single unlettered paragraph to one consisting of five subsections lettered (a) to (e).

1968—Pub. L. 90–246 substituted ''74 cents'' for ''51 cents'' as maximum allowable cost-of-transportation mileage rate.

1966—Pub. L. 89–718 substituted ''household effects'' for ''household goods'' and ''48'' for ''forty-eight''.

1964—Pub. L. 88–406 substituted ''continental United States, within Alaska, or between the continental United States and Alaska'' for ''United States except in Hawaii or Alaska'', ''51 cents'' for ''36 cents'', inserted ''by the United States or'' in cl. (2), and defined ''continental United States''.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 808(b) of Pub. L. 96–342 provided that: ''The amendments made by subsection (a) [amending this section] shall only apply to transportation of house trailers and mobile home dwellings which is completed after September 30, 1980.''

## § 410. Travel and transportation allowances: miscellaneous categories

(a) The following persons are entitled to such travel and transportation allowances provided by section 404 of this title as prescribed by the Secretaries concerned—

(1) cadets of the United States Military Academy;

(2) midshipmen of the United States Naval Academy;

(3) cadets of the United States Air Force Academy;

(4) cadets of the Coast Guard Academy;

(5) applicants for enlistment;

(6) rejected applicants for enlistment;

(7) general prisoners;

(8) discharged prisoners;

(9) insane patients transferred from military hospitals to other hospitals or to their homes; and

(10) persons discharged from Saint Elizabeths Hospital after transfer from a uniformed service.

(b) The Secretary concerned shall, in prescribing allowances under subsection (a), consider the rights of the United States, as well as those of the persons concerned.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 475; Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 410(a) ..... | 37:253(e) (less last 25 words). | Oct. 12, 1949, ch. 681, §303(e), 63 Stat. 815. |
| 410(b) ..... | 37:253(e) (last 25 words). | |

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

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), 551(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.

## §411. Travel and transportation allowances: administrative provisions

(a) For the administration of sections 404(a), (b), and (d)–(f), 404a, 405, 405a, 406(a)–(f), 407, 409, and 410 of this title, the Secretaries concerned shall prescribe regulations that are, as far as practicable, uniform for all of the uniformed services.

(b) In establishing the rates and kinds of allowances authorized by the sections of this title designated by subsection (a), the Secretaries concerned shall—

(1) consider the average cost of common carrier transportation when prescribing a monetary allowance in place of transportation;

(2) consider the current economic data on the cost of subsistence, including lodging and other necessary incidental expenses related thereto, when prescribing per diem rates and designating areas as high cost areas; and

(3) consider the average cost of transportation and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage allowances.

(c) The Secretaries concerned shall determine what constitutes a travel status for the purposes of the sections of this title designated by subsection (a).

(d) The Secretary concerned shall define the term ''permanent station'' for the purposes of the sections of this title designated by subsection (a). The definition shall include a shore station or the home yard or home port of a vessel to which a member of a uniformed service who is entitled to basic pay may be ordered. An authorized change in the home yard or home port of such a vessel is a change of permanent station.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 89–26, §1(5), May 22, 1965, 79 Stat. 117; Pub. L. 96–343, §5(b), Sept. 8, 1980, 94 Stat. 1126; Pub. L. 96–513, title V, §516(12), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 97–60, title I, §122(b), Oct. 14, 1981, 95 Stat. 1003; Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 411(a) ..... | 37:253(h). | Oct. 12, 1949, ch. 681, §303(c) (10th sentence), (f), (g), (h), 63 Stat. 814. |
| 411(b) ..... | 37:253(f). | |
| 411(c) ..... | 37:253(g). | |
| 411(d) ..... | 37:253(c) (10th sentence). | |

In subsection (a), section 253(h) (provisos) of existing title 37 is omitted, since the regulations to which reference is made have been issued. The exceptions to sections 404(c) and 406(g) are inserted, since the source text for those subsections require regulations prescribed thereunder to be uniform.

In subsections (c) and (d), the words ''for the purposes of the sections of this title designated by subsection (a) of this section'' are inserted to clarify the coverage of the source statute.

AMENDMENTS

1991—Subsecs. (b) to (d). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

1981—Subsec. (a). Pub. L. 97–60 inserted reference to section 404a.

1980—Subsec. (b)(1). Pub. L. 96–343, §5(b)(1), substituted ''common carrier transportation'' for ''first-class transportation, including sleeping accommodations,''.

Subsec. (b)(2). Pub. L. 96–343, §5(b)(2), inserted ''and designating areas as high cost areas'' after ''rates''.

Subsec. (b)(3). Pub. L. 96–343, §5(b)(3), substituted ''transportation'' for ''first-class transportation, including sleeping accommodations'' and ''allowances'' for ''rates''.

Subsec. (d). Pub. L. 96–513 substituted ''term'' for ''words''.

1965—Subsec. (a). Pub. L. 89–26 inserted reference to section 405a.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–60 effective Apr. 1, 1982, see section 122(c) of Pub. L. 97–60, set out as an Effective Date note under section 404a of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

Amendment by Pub. L. 96–343 effective with respect to travel and transportation performed after Aug. 31, 1980, see section 5(c) of Pub. L. 96–343, set out as a note under section 404 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–26 effective Feb. 1, 1965, see section 2 of Pub. L. 89–26, as amended, set out as an Effective Date note under section 405a of this title.

### § 411a. Travel and transportation allowances: travel performed in connection with convalescent leave

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel from his place of medical treatment in the continental United States to a place selected by him and approved by the Secretary concerned, and return, when the Secretary concerned determines that the member is traveling in connection with authorized leave for convalescence from illness or injury incurred while the member was eligible for the receipt of hostile fire pay under section 310 of this title.

(b) The allowances prescribed under this section may not be at rates more than the rates authorized under section 404(d)(1) of this title. Authorized travel under this section is performed in a duty status.

(Added Pub. L. 90–207, § 9(1), Dec. 16, 1967, 81 Stat. 655.)

EFFECTIVE DATE

Section effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as an Effective Date of 1967 Amendment note under section 203 of this title.

### § 411b. Travel and transportation allowances: travel performed in connection with leave between consecutive overseas tours

(a) ALLOWANCES AUTHORIZED.—Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service stationed outside the continental United States who is ordered to a consecutive tour of duty at the same duty station or who is ordered to make a change of permanent station to another duty station outside the continental United States may be paid travel and transportation allowances in connection with authorized leave from his last duty station to a place approved by the Secretary concerned and from that place to his designated post of duty. Such allowances may be paid for the member and for the dependents of the member who are authorized to, and do, accompany him at his duty stations.

(b) AUTHORITY TO DEFER TRAVEL; LIMITATIONS.—(1) Under the regulations referred to in subsection (a), a member may defer the travel for which the member is paid travel and transportation allowances under this section until any time before the completion of the consecutive tour at the same duty station or the completion of the tour of duty at the new duty station under the order involved, as the case may be.

(2) If a member is unable to undertake the travel before expiration of the deferral period under paragraph (1) because of duty in connection with a contingency operation, the member may defer the travel until not more than one year after the date on which the member's duty in connection with the contingency operation ends.

(c) LIMITATION ON ALLOWANCE RATE.—The allowances prescribed under this section may not exceed the rate authorized under section 404(d) of this title. Authorized travel under this section is performed in a duty status.

(Added Pub. L. 93–213, § 1(1), Dec. 28, 1973, 87 Stat. 910; amended Pub. L. 97–60, title I, § 125, Oct. 14, 1981, 95 Stat. 1003; Pub. L. 99–145, title VI, § 615(a), Nov. 8, 1985, 99 Stat. 641; Pub. L. 100–26, § 8(d)(8), Apr. 21, 1987, 101 Stat. 286; Pub. L. 100–180, div. A, title VI, § 614(d)(1), (2), Dec. 4, 1987, 101 Stat. 1095; Pub. L. 102–190, div. A, title VI, § 624, Dec. 5, 1991, 105 Stat. 1379; Pub. L. 104–201, div. A, title VI, § 623(a), Sept. 23, 1996, 110 Stat. 2548; Pub. L. 107–107, div. A, title VI, § 637, Dec. 28, 2001, 115 Stat. 1146; Pub. L. 107–314, div. A, title VI, §§ 621(a), (b), 654(b)(4), Dec. 2, 2002, 116 Stat. 2570, 2571, 2582.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–314, §§ 621(b)(1), 654(b)(4), inserted heading, struck out par. (1) designation before "under uniform", substituted "the continental United States" for "the 48 contiguous States and the District of Columbia" in two places, and struck out par. (2) which read as follows: "Under the regulations referred to in paragraph (1), a member may defer the travel for which the member is paid travel and transportation allowances under such paragraph until not more than one year after the date on which the member begins the consecutive tour of duty at the same duty station or reports to another duty station under the order involved, as the case may be. If the member is unable to undertake the travel before the end of such one-year period as a result of duty in connection with a contingency operation, the member may defer the travel for one additional year beginning on the date the duty of the member in connection with the contingency operation ends."

Subsecs. (b), (c). Pub. L. 107–314, § 621(a), (b)(2), added subsec. (b), redesignated former subsec. (b) as (c), and inserted heading.

2001—Subsec. (a)(1). Pub. L. 107–107 struck out ", or his designee, or to a place no farther distant than his home of record" after "place approved by the Secretary concerned".

1996—Subsec. (a)(2). Pub. L. 104–201 inserted at end "If the member is unable to undertake the travel before the end of such one-year period as a result of duty in connection with a contingency operation, the member may defer the travel for one additional year beginning on the date the duty of the member in connection with the contingency operation ends."

1991—Subsec. (a)(2). Pub. L. 102–190 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "If, because of military necessity, a member authorized travel and transportation allowances under this subsection is denied leave between the two tours of duty outside the 48 contiguous States and the District of Columbia, the member shall be authorized to use such travel and transportation allowances from his current duty station at the time the member is first granted leave—

"(A) which is to be taken away from the member's permanent duty station; and

"(B) for which a travel and transportation allowance is not otherwise authorized."

1987—Pub. L. 100–180, § 614(d)(2), amended section catchline generally, substituting "leave between consecutive overseas tours" for "certain leave".

Subsec. (a). Pub. L. 100–26 substituted "48" for "forty-eight" wherever appearing.

Subsec. (a)(2). Pub. L. 100–180, § 614(d)(1), substituted "the time the member is first granted leave—" for "the first time the member is granted leave." and added subpars. (A) and (B).

1985—Subsec. (a)(1). Pub. L. 99–145 struck out "if he is a member without dependents," after "home of record", struck out ", if either his last duty station or

his designated post of duty is a restricted area in which dependents are not authorized'' after ''post of duty'' in first sentence, and inserted ''such allowances may be paid for the member and for the dependents of the member who are authorized to, and do, accompany him at his duty stations.''

1981—Subsec. (a). Pub. L. 97–60 designated existing provisions as par. (1), inserted ''who is ordered to a consecutive tour of duty at the same duty station or'' after ''District of Columbia'', and added par. (2).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title VI, §621(c), Dec. 2, 2002, 116 Stat. 2571, provided that: ''Subsection (b) of section 411b of title 37, United States Code, as added by subsection (a), shall apply with respect to members of the uniformed services in a deferred leave travel status under such section as of the date of the enactment of this Act [Dec. 2, 2002] or becomes entitled [sic] to travel and transportation allowances under such section on or after that date.''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 623(b) of Pub. L. 104–201 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of November 1, 1995.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 615(b) of Pub. L. 99–145 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to orders to change a permanent station that are effective after September 30, 1985.''

## §411c. Travel and transportation allowances: travel performed in connection with rest and recuperative leave from certain stations in foreign countries

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service who is serving at a duty station outside the United States in an area specifically designated for the purposes of this section by the Secretary concerned may be paid for or provided transportation for himself and his dependents authorized to reside at his duty station—

(1) to another location outside the United States having different social, climatic, or environmental conditions than those at the duty station at which the member is serving; or

(2) to a location in the United States.

(b) When the transportation authorized by subsection (a) is provided by the Secretary concerned, the Secretary may use Government or commercial carriers. The Secretary concerned may limit the amount of payments made to members under subsection (a).

(Added Pub. L. 97–60, title I, §126(a), Oct. 14, 1981, 95 Stat. 1003; amended Pub. L. 100–26, §8(d)(9), Apr. 21, 1987, 101 Stat. 286; Pub. L. 105–261, div. A, title VI, §633(a), (b)(1), Oct. 17, 1998, 112 Stat. 2044.)

AMENDMENTS

1998—Pub. L. 105–261, §633(b)(1), substituted ''rest and recuperative leave from certain stations'' for ''leave from certain stations'' in section catchline.

Subsec. (b). Pub. L. 105–261, §633(a), added subsec. (b) and struck out former subsec. (b) which read as follows: ''The transportation authorized by this section is limited to transportation of the member, and of each dependent of the member, for one round-trip during any tour of at least 24, but less than 36, consecutive months or two round-trips during any tour of at least 36 consecutive months.''

1987—Subsec. (b). Pub. L. 100–26 substituted ''round-trip'' for ''roundtrip'' and ''round-trips'' for ''round-trips''.

## §411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents

(a) Under uniform regulations prescribed by the Secretaries concerned, transportation in accordance with subsection (b) may be provided for a member of a uniformed service and for dependents of that member authorized to reside at the member's duty station (or authorized to reside at another location and receive a station allowance) incident to emergency leave granted for reasons of a personal emergency (or in the case of transportation provided only for a dependent, under circumstances involving a personal emergency similar to the circumstances for which emergency leave could be granted a member).

(b)(1) In the case of a member stationed outside the continental United States and the dependents of such a member, transportation under this section may be provided from the location of the member or dependents, at the time notification of the personal emergency is received, or the member's permanent duty station (and if the member's dependents reside at another overseas location and receive a station allowance, from that location)—

(A) to the international airport in the continental United States closest to the location from which the member and his dependents departed;

(B) to any airport in the continental United States to which travel can be arranged at the same or a lower cost as travel obtained under subparagraph (A); or

(C) to an airport in Alaska, Hawaii, the Commonwealth of Puerto Rico, any possession of the United States, or any other location outside the continental United States, as determined by the Secretary concerned.

(2) In the case of a member whose domicile is outside the continental United States and who is stationed in the continental United States and the dependents of such a member, transportation under this section may be provided from the international airport in the continental United States nearest the location of the member and dependents at the time notification of the personal emergency is received or the international airport nearest the member's permanent duty station to an international airport in Alaska, Hawaii, the Commonwealth of Puerto Rico, a possession of the United States, or any other location outside the continental United States, as determined by the Secretary concerned.

(3) In the case of a member stationed outside the continental United States whose dependents reside in the continental United States, transportation under this section may be provided for the member as described in paragraph (1) and for the dependents as described in paragraph (2).

(4) Whenever transportation is provided under this section, return transportation may be pro-

vided to the location from which the member or dependent departed or the member's duty station.

(c) Transportation under this section may be authorized only upon a determination that, considering the nature of the personal emergency involved, Government transportation is not reasonably available. The cost of transportation authorized under this section for a member, or the dependents of a member, may not exceed the cost of Government-procured commercial air travel between the applicable locations described in subsection (b).

(Added Pub. L. 97–60, title I, § 126(a), Oct. 14, 1981, 95 Stat. 1004; amended Pub. L. 98–525, title VI, § 612(a)(1), Oct. 19, 1984, 98 Stat. 2538; Pub. L. 100–26, § 8(e)(6), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103–337, div. A, title VI, § 623, Oct. 5, 1994, 108 Stat. 2784; Pub. L. 106–65, div. A, title VI, § 633, Oct. 5, 1999, 113 Stat. 661; Pub. L. 107–314, div. A, title VI, § 654(b)(5), Dec. 2, 2002, 116 Stat. 2582.)

AMENDMENTS

2002—Subsec. (d). Pub. L. 107–314 struck out subsec. (d) which read as follows: "In this section, the term 'continental United States' means the 48 contiguous States and the District of Columbia."

1999—Subsec. (b)(1). Pub. L. 106–65 struck out "or" at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

1994—Subsec. (b)(1). Pub. L. 103–337, § 623(1)(A), substituted "from the location of the member or dependents, at the time notification of the personal emergency is received, or" for "from the international airport nearest the location of the member and dependents at the time notification of the personal emergency is received or the international airport nearest" in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 103–337, § 623(1)(B), substituted "closest to the location" for "closest to the international airport".

Subsec. (b)(4). Pub. L. 103–337, § 623(2), substituted "to the location from which the member or dependent departed or the member's duty station." for "to the international airport from which the member or dependent departed or the international airport nearest the member's duty station."

1991—Subsecs. (a), (b)(3), (c). Pub. L. 102–25 struck out "of this section" in subsecs. (a) and (c) and "of this subsection" in two places in subsec. (b)(3).

1987—Subsec. (d). Pub. L. 100–26 inserted "the term" after "In this section,".

1984—Pub. L. 98–525 substituted "personal emergencies for certain members and dependents" for "certain emergencies for members performing temporary duty" in section catchline.

Subsec. (a). Pub. L. 98–525 substituted "transportation in accordance with subsection (b) of this section may be provided for a member of a uniformed service and for dependents of that member authorized to reside at the member's duty station (or authorized to reside at another location and receive a station allowance) incident to emergency leave granted for reasons of a personal emergency (or in the case of transportation provided only for a dependent, under circumstances involving a personal emergency similar to the circumstances for which emergency leave could be granted a member)" for "a member of a uniformed service who is performing temporary duty away from his permanent duty station (or who is assigned to a ship or unit operating away from its home port) may be provided the travel and transportation authorized by section 404 of this title for travel performed by the member from his place of temporary duty (or from his ship or unit) to his permanent duty station (or the home port of the ship or unit) or to any other location, and return (if applicable), if such travel has been approved incident to the serious illness or injury or the death of a dependent of the member".

Subsec. (b). Pub. L. 98–525 added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 98–525 redesignated subsec. (b) as (c), substituted "Transportation under this section may be authorized only upon a determination that, considering the nature of the personal emergency involved, Government transportation is not reasonably available" for "Transportation under this section may be authorized only upon a determination that Government transportation is not reasonably available, considering the nature of the personal emergency involved", and substituted "The cost of transportation authorized under this section for a member, or the dependents of a member, may not exceed the cost of Government-procured commercial air travel between the applicable locations described in subsection (b) of this section" for "The cost of transportation authorized under this section may not exceed the cost of Government-procured commercial air travel from the member's place of temporary duty (or from his ship or unit) to the member's permanent duty station (or the home port of the ship or unit), and return (if applicable)".

Subsec. (d). Pub. L. 98–525 added subsec. (d).

EFFECTIVE DATE OF 1984 AMENDMENT

Section 612(b) of Pub. L. 98–525 provided that: "The amendment made by subsection (a)(1) [amending this section] shall apply with respect to transportation begun after September 30, 1984."

## § 411e. Travel and transportation allowances: transportation incident to certain emergencies for members performing temporary duty

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service who is performing temporary duty away from his permanent duty station (or who is assigned to a ship or unit operating away from its home port) may be provided the travel and transportation authorized by section 404 of this title for travel performed by the member from his place of temporary duty (or from his ship or unit) to his permanent duty station (or the home port of the ship or unit) or to any other location, and return (if applicable), if such travel has been approved incident to a personal emergency of the member.

(b) Transportation under this section may be authorized only upon a determination that Government transportation is not reasonably available, considering the nature of the personal emergency involved. The cost of transportation authorized under this section may not exceed the cost of Government-procured commercial air travel from the member's place of temporary duty (or from his ship or unit) to the member's permanent duty station (or the home port of the ship or unit), and return (if applicable).

(Added Pub. L. 97–60, title I, § 126(a), Oct. 14, 1981, 95 Stat. 1004; amended Pub. L. 100–456, div. A, title VI, § 623(a), Sept. 29, 1988, 102 Stat. 1984.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–456 substituted "incident to a personal emergency of the member" for "incident to the serious illness or injury or the death of a dependent of the member".

EFFECTIVE DATE OF 1988 AMENDMENT

Section 623(b) of Pub. L. 100–456 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to travel performed after September 30, 1988.''

**§411f. Travel and transportation allowances: transportation for survivors of deceased member to attend member's burial ceremonies; transportation for survivors of member dying overseas to attend transfer ceremonies**

(a) ALLOWANCES AUTHORIZED.—(1) The Secretary concerned may provide round trip travel and transportation allowances to eligible relatives of a member of the uniformed services who dies while on active duty or inactive duty in order that the eligible relatives may attend the burial ceremony of the deceased member at the location determined under subsection (a)(8) of section 1482 of title 10 or attend a memorial service for the deceased member, under circumstances covered by subsection (d) of such section.

(2) The Secretary concerned may provide round trip travel and transportation allowances to eligible relatives of a member of the uniformed services who dies while on active duty in order that the eligible relatives may attend a memorial service for the deceased member that occurs at a location other than the location of the burial ceremony for which travel and transportation allowances are provided under paragraph (1). Travel and transportation allowances may be provided under this paragraph for travel of eligible relatives to only one memorial service for the deceased member concerned.

(3) The Secretary concerned may also provide round trip travel and transportation allowances to an attendant who accompanies an eligible relative provided travel and transportation allowances under paragraph (1) for travel to the burial ceremony if the Secretary concerned determines that—

(A) the accompanied eligible relative is unable to travel unattended because of age, physical condition, or other justifiable reason; and

(B) there is no other eligible relative of the deceased member traveling to the burial ceremony who is eligible for travel and transportation allowances under paragraph (1) and is qualified to serve as the attendant.

(b) LIMITATION ON AMOUNT.—Allowances for travel under subsection (a) may not exceed the rates for two days and the time necessary for such travel.

(c) ELIGIBLE RELATIVES.—(1) The following members of the family of a deceased member of the uniformed services are eligible for the travel and transportation allowances under paragraphs (1) and (2) of subsection (a):

(A) The surviving spouse (including a remarried surviving spouse) of the deceased member.

(B) The child or children of the deceased member (including stepchildren, adopted children, and illegitimate children).

(C) The parent or parents of the deceased member (as defined in section 401(b)(2) of this title).

(D) The sibling or siblings of the deceased member.

(E) The person who directs the disposition of the remains of the deceased member under section 1482(c) of title 10 or, in the case of a deceased member whose remains are commingled and buried in a common grave in a national cemetery, the person who would have been designated under such section to direct the disposition of the remains if individual identification had been made.

(2) If no person described in subparagraphs (A) through (D) of paragraph (1) is provided travel and transportation allowances under paragraph (1) or (2) of subsection (a), the travel and transportation allowances may be provided to one or two other persons who are closely related to the deceased member and are selected by the person referred to in paragraph (1)(E). A person provided travel and transportation allowances under this paragraph is in addition to the person referred to in paragraph (1)(E).

(d) EXPANDED ALLOWANCES RELATED TO RECOVERY OF REMAINS FROM VIETNAM CONFLICT.—(1) The Secretary of Defense may provide round trip travel and transportation allowances for the family of a deceased member of the armed forces who died while classified as a prisoner of war or as missing in action during the Vietnam conflict and whose remains are returned to the United States in order that the family members may attend the burial ceremony of the deceased member.

(2) The allowances under paragraph (1) shall include round trip transportation from the places of residence of such family members to the burial ceremony and such living expenses and other allowances as the Secretary of Defense considers appropriate.

(3) For purposes of paragraph (1), eligible family members of the deceased member of the armed forces include the following:

(A) The surviving spouse (including a remarried surviving spouse) of the deceased member.

(B) The child or children, including children described in section 401(b)(1) of this title, of the deceased member.

(C) The parent or parents of the deceased member (as defined in section 401(b)(2) of this title).

(D) If no person described in subparagraph (A), (B), or (C) is provided travel and transportation allowances under paragraph (1), any brothers, sisters, halfbrothers, halfsisters, stepbrothers, and stepsisters of the deceased member.

(e) TRANSPORTATION TO TRANSFER CEREMONIES OF MEMBERS OF THE ARMED FORCES WHO DIE OVERSEAS.—(1) The Secretary of the military department concerned may provide round trip transportation to ceremonies for the transfer of a member of the armed forces who dies while located or serving overseas to the following:

(A) The primary next of kin of the member.

(B) Two family members (other than primary next of kin) of the member.

(C) One or more additional family members of the member, at the discretion of the Secretary.

(2)(A) For purposes of this subsection, the primary next of kin of a member of the armed forces shall be the eligible relatives of the member specified in subparagraphs (A) through (D) of subsection (c)(1).

(B) The Secretaries of the military departments shall prescribe in regulations the family members of a member of the armed forces who shall constitute family members for purposes of subparagraphs (B) and (C) of paragraph (1). The Secretary of Defense shall ensure that such regulations are uniform across the military departments.

(3) Transportation shall be provided under this subsection by means of Invitational Travel Authorizations.

(4) The Secretary of a military department may, upon the request of the primary next of kin covered by paragraph (1)(A) and at the discretion of the Secretary, provide for the accompaniment of such next of kin in travel under this subsection by a casualty assistance officer or family liaison officer of the military department who shall act as an escort in such accompaniment.

(f) BURIAL CEREMONY DEFINED.—In this section, the term ''burial ceremony'' includes the following:

(1) An interment of casketed or cremated remains.

(2) A placement of cremated remains in a columbarium.

(3) A memorial service for which reimbursement is authorized under section 1482(d)(2) of title 10.

(4) A burial of commingled remains that cannot be individually identified in a common grave in a national cemetery.

(g) REGULATIONS.—The Secretaries concerned shall prescribe uniform regulations to carry out this section.

(Added Pub. L. 99–145, title VI, § 620(a)(1), Nov. 8, 1985, 99 Stat. 642; amended Pub. L. 100–456, div. A, title VI, § 632(b), Sept. 29, 1988, 102 Stat. 1986; Pub. L. 103–35, title II, § 204(a)(2), May 31, 1993, 107 Stat. 102; Pub. L. 107–107, div. A, title VI, § 638(a), Dec. 28, 2001, 115 Stat. 1146; Pub. L. 108–375, div. A, title VI, § 631, Oct. 28, 2004, 118 Stat. 1956; Pub. L. 110–181, div. A, title VI, § 632, Jan. 28, 2008, 122 Stat. 154; Pub. L. 111–84, div. A, title V, § 542(b)(1), (2)(A), title VI, § 631, Oct. 28, 2009, 123 Stat. 2299, 2300, 2359.)

AMENDMENTS

2009—Pub. L. 111–84, § 542(b)(2)(A), substituted ''member's burial ceremonies; transportation for survivors of member dying overseas to attend transfer ceremonies'' for ''the member's burial ceremonies'' in section catchline.

Subsec. (a)(2), (3). Pub. L. 111–84, § 631(a), added par. (2) and redesignated former par. (2) as (3).

Subsec. (c). Pub. L. 111–84, § 631(b), in introductory provisions of par. (1), substituted ''paragraphs (1) and (2) of subsection (a)'' for ''subsection (a)(1)'' and, in par. (2), substituted ''paragraph (1) or (2) of subsection (a)'' for ''subsection (a)(1)''.

Subsecs. (e) to (g). Pub. L. 111–84, § 542(b)(1), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

2008—Subsec. (c)(1)(B). Pub. L. 110–181, § 632(a)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: ''The unmarried child or children of the deceased member referred to in section 401(a)(2) of this title.''

Subsec. (c)(1)(D), (E). Pub. L. 110–181, § 632(a)(2), added subpars. (D) and (E).

Subsec. (c)(2). Pub. L. 110–181, § 632(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''If no person described in paragraph (1) is provided travel and transportation allowances under subsection (a)(1), the travel and transportation allowances may be provided to—

''(A) the person who directs the disposition of the remains of the deceased member under section 1482(c) of title 10, or, in the case of a deceased member whose remains are commingled and buried in a common grave in a national cemetery, the person who would have been designated under such section to direct the disposition of the remains if individual identification had been made; and

''(B) up to two additional persons closely related to the deceased member who are selected by the person referred to in subparagraph (A).''

2004—Subsec. (a)(1). Pub. L. 108–375, § 631(a), inserted before period at end ''at the location determined under subsection (a)(8) of section 1482 of title 10 or attend a memorial service for the deceased member, under circumstances covered by subsection (d) of such section''.

Subsec. (b). Pub. L. 108–375, § 631(b), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows:

''(1) Except as provided in paragraphs (2) and (3), allowances under subsection (a) are limited to travel and transportation to a location in the United States, Puerto Rico, and the possessions of the United States and may not exceed the rates for two days and the time necessary for such travel.

''(2) If a deceased member was ordered or called to active duty from a place outside the United States, Puerto Rico, or the possessions of the United States, the allowances authorized under subsection (a) may be provided to and from such place and may not exceed the rates for two days and the time necessary for such travel.

''(3) If a deceased member is interred in a cemetery maintained by the American Battle Monuments Commission, the travel and transportation allowances authorized under subsection (a) may be provided to and from such cemetery and may not exceed the rates for two days and the time necessary for such travel.''

Subsec. (c)(1)(C). Pub. L. 108–375, § 631(c), substituted ''The'' for ''If no person described in subparagraph (A) or (B) is provided travel and transportation allowances under subsection (a)(1), the''.

2001—Pub. L. 107–107 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows:

''(a) Under uniform regulations prescribed by the Secretaries concerned, round trip travel and transportation allowances may be provided the dependents of a member who dies while on active duty or inactive duty in order that such dependents may attend the burial ceremonies of the deceased member.

''(b)(1) Except as provided in paragraph (2), allowances under this section are limited to travel and transportation to a location in the United States, Puerto Rico, and the possessions of the United States and may not exceed the rates for 2 days.

''(2) If a deceased member was ordered or called to active duty from a place outside the United States, Puerto Rico, or the possessions of the United States, the allowances authorized under this section may be provided to and from such place and may be extended to accommodate the time necessary for such travel.

''(c) In this section, the term 'dependents' includes the dependents specified in paragraphs (1) and (2) of section 401(a) of this title. However, if no person qualifies under such paragraphs, the parents of a member (including stepparent or parent by adoption, or any person, including a former stepparent, who has stood in

loco parentis to the member at any time for a continuous period of at least 5 years before the member became 21 years of age) may be paid the travel and transportation allowances authorized under this section.''

1993—Subsec. (c). Pub. L. 103–35 substituted ''section 401(a) of this title'' for ''section 401 of this title''.

1988—Subsec. (a). Pub. L. 100–456 substituted ''or inactive duty in order that such dependents may'' for ''for a period of 30 days or more in order to''.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title V, §542(c), Oct. 28, 2009, 123 Stat. 2300, provided that: ''This section [amending this section and enacting provisions set out as a note under section 1482 of Title 10, Armed Forces] and the amendments made by this section shall take effect on the date that is one year after the date of the enactment of this Act [Oct. 28, 2009].''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VI, §638(c), Dec. 28, 2001, 115 Stat. 1148, provided that: ''Section 411f of title 37, United States Code, as amended by subsection (a), shall apply with respect to burial ceremonies of deceased members of the uniformed services that occur on or after the date of the enactment of this Act [Dec. 28, 2001].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 632(c) of Pub. L. 100–456 provided that: ''The amendments made by this section [amending this section and section 411h of this title] shall take effect on October 1, 1988.''

EFFECTIVE DATE

Section 620(b) of Pub. L. 99–145 provided that: ''The travel and transportation allowance authorized by the amendments made by this section [enacting this section] is payable only for travel that commences after September 30, 1985.''

## §411g. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who—

(1) is stationed outside the United States; and

(2) voluntarily agrees to extend his overseas tour of duty for a period equal to at least one-half of the overseas tour prescribed for his permanent duty station;

may be paid the transportation allowance described in subsection (b) for himself and each dependent who is authorized to, and does, accompany him.

(b) The transportation allowance authorized by subsection (a) is an allowance provided—

(1) in connection with authorized leave; and

(2) for the cost of transportation—

(A) from a member's permanent duty station to a place approved by the Secretary concerned and from that place to his permanent duty station; or

(B) from a member's permanent duty station to a place no farther distant than his home of record (if he is a member without dependents) and from that place to his permanent duty station.

(c) The transportation allowance authorized by subsection (a) may not be provided to an enlisted member who, with respect to an extension of duty described in subsection (a)—

(1) elects to receive special pay under section 314 of this title for duty performed during such extension of duty; or

(2) elects to receive rest and recuperative absence or transportation at Government expense, or any combination thereof, under section 705 of title 10 for such extension of duty.

(d) The authority under this section shall expire on October 1, 1989.

(Added Pub. L. 100–180, div. A, title VI, §614(a)(1), Dec. 4, 1987, 101 Stat. 1093; amended Pub. L. 100–456, div. A, title VI, §624(a), Sept. 29, 1988, 102 Stat. 1984; Pub. L. 101–189, div. A, title VI, §653(c)(1), Nov. 29, 1989, 103 Stat. 1462.)

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–189 struck out ''to'' after ''may be paid'' in concluding provisions.

1988—Subsec. (a). Pub. L. 100–456 substituted ''may be paid'' for ''is entitled'' in concluding provisions.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 624(b) of Pub. L. 100–456 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to agreements to extend overseas tours of duty made on and after the date of the enactment of this Act [Sept. 29, 1988].''

EFFECTIVE DATE

Section 614(b) of Pub. L. 100–180 provided that: ''Section 411g of title 37, United States Code, as added by subsection (a), shall apply with respect to agreements to extend overseas tours of duty made after the date of the enactment of this Act [Dec. 4, 1987].''

GAO REVIEW AND REPORT

Section 614(c) of Pub. L. 100–180 directed Comptroller General to review implementation of 37 U.S.C. 411g after it has been in effect for one year, for the purpose of comparing the total cost to the Department of Defense of the transportation allowance allowed under such section with the total cost that would have been incurred by the Department of Defense over such period if such section had not been in effect and to submit to Congress a report on such review no later than Mar. 1, 1989.

## §411h. Travel and transportation allowances: transportation of designated individuals incident to hospitalization of members for treatment of wounds, illness, or injury

(a) TRAVEL AND TRANSPORTATION AUTHORIZED.—(1) Under uniform regulations prescribed by the Secretaries concerned, travel and transportation described in subsection (c) may be provided for not more than three individuals who, with respect to a member described in paragraph (2), are designated individuals for that member if the attending physician or surgeon and the commander or head of the military medical facility exercising control over the member determine, with respect to any such individual, that the presence of such individual may contribute to the member's health and welfare. In circumstances determined to be appropriate by the Secretary concerned, the Secretary may waive the limitation on the number of designated individuals provided travel and transportation under this section.

(2) A member referred to in paragraph (1) is a member of the uniformed services who—

(A) is serving on active duty, is entitled to pay and allowances under section 204(g) of this title (or would be so entitled were it not for offsetting earned income described in that section), or is retired for the illness or injury referred to in subparagraph (B); and

(B) either—

(i) is seriously wounded, seriously ill, seriously injured (including having a serious mental disorder), or in a situation of imminent death (whether or not electrical brain activity still exists or brain death is declared), and is hospitalized in a medical facility; or

(ii) is not described in clause (i), but has a wound or an injury incurred in an operation or area designated as a combat operation or combat zone, respectively, by the Secretary of Defense and is hospitalized in a medical facility for treatment of that wound or injury.

(3) Not more than a total of three roundtrips may be provided under paragraph (1) in any 60-day period at Government expense to the individuals who, with respect to a member, are the designated individuals of that member in effect during that period. However, if the Secretary concerned has granted a waiver under the second sentence of paragraph (1) with respect to a member, then for any 60-day period in which the waiver is in effect the limitation in the preceding sentence shall be adjusted accordingly. In addition, during any period during which there is in effect a non-medical attendant designation for a member under section 411k of this title, not more than a total of two roundtrips may be provided under paragraph (1) in any 60-day period at Government expense until there no longer is a designation of a non-medical attendant or that designation transfers to another individual, in which case during the transfer period three roundtrips may be provided.

(4) In the case of a designated individual who is also a member of the uniformed services, that member may be provided travel and transportation under this section in the same manner as a designated individual who is not a member.

(b) DEFINITIONS.—(1) In this section, the term ''designated individual'', with respect to a member, means—

(A) an individual designated by the member for the purposes of this section; or

(B) in the case of a member who has not made a designation under subparagraph (A) and, as determined by the attending physician or surgeon, is not able to make such a designation, an individual who, as designated by the attending physician or surgeon and the commander or head of the military medical facility exercising control over the member, is someone with a personal relationship to the member whose presence may aid and support the health and welfare of the member during the duration of the member's inpatient treatment.

(2) The designation of an individual as a designated individual for purposes of this section may be changed at any time.

(3)(A) In this section, the term ''health and welfare'', with respect to a member, includes a situation in which a decision must be made by family members regarding the termination of artificial life support being provided to the member.

(B) In this paragraph, the term ''family member'', with respect to a member, means the following:

(i) The member's spouse.

(ii) Children of the member (including stepchildren, adopted children, and illegitimate children).

(iii) Parents of the member or persons in loco parentis to the member, including fathers and mothers through adoption and persons who stood in loco parentis to the member for a period not less than one year immediately before the member entered the uniformed service, except that only one father and one mother or their counterparts in loco parentis may be recognized in any one case.

(iv) Siblings of the member.

(v) A person related to the member as described in clause (i), (ii), (iii), or (iv) who is also a member of the uniformed services.

(4)(A) In this section, the term ''serious mental disorder'', in the case of a member, means that the member has been diagnosed with a mental disorder that requires intensive mental health treatment or hospitalization.

(B) The circumstances in which a member shall be considered to have a serious mental disorder for purposes of this section shall include, but not be limited to, the following:

(i) The member is considered to be a potential danger to self or others as a result of a diagnosed mental disorder that requires intensive mental health treatment or hospitalization.

(ii) The member is diagnosed with a mental disorder and has psychotic symptoms that require intensive mental health treatment or hospitalization.

(iii) The member is diagnosed with a mental disorder and has severe symptoms or severe impairment in functioning that require intensive mental health treatment or hospitalization.

(c) ROUND TRIP TRANSPORTATION AND PER DIEM ALLOWANCE.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the designated individual and the location of the medical facility in which the member is hospitalized.

(2) In addition to the transportation authorized by subsection (a), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established under section 404(d) of this title.

(d) METHOD OF TRANSPORTATION AUTHORIZED.—(1) The transportation authorized by subsection (a) may be provided by any of the following means:

(A) Transportation in-kind.

(B) A monetary allowance in place of transportation in-kind at a rate to be prescribed by the Secretaries concerned.

(C) Reimbursement for the commercial cost of transportation.

(2) An allowance payable under this subsection may be paid in advance.

(3) Reimbursement payable under this subsection may not exceed the cost of government-procured commercial round-trip air travel.

(Added Pub. L. 100–180, div. A, title VI, §615(a)(1), Dec. 4, 1987, 101 Stat. 1095; amended Pub. L. 100–456, div. A, title VI, §632(a), Sept. 29, 1988, 102 Stat. 1985; Pub. L. 103–337, div. A, title VI, §624, Oct. 5, 1994, 108 Stat. 2785; Pub. L. 108–136, div. A, title VI, §632, Nov. 24, 2003, 117 Stat. 1508; Pub. L. 108–375, div. A, title VI, §632(a), (b), Oct. 28, 2004, 118 Stat. 1956; Pub. L. 109–13, div. A, title I, §1026(a), (b)(1), May 11, 2005, 119 Stat. 254; Pub. L. 109–163, div. A, title VI, §655(b), Jan. 6, 2006, 119 Stat. 3314; Pub. L. 109–364, div. A, title VI, §631, Oct. 17, 2006, 120 Stat. 2258; Pub. L. 111–84, div. A, title VI, §632(a)–(g)(1), Oct. 28, 2009, 123 Stat. 2359–2362.)

AMENDMENTS

2009—Pub. L. 111–84, §632(g)(1), substituted ''designated individuals incident to hospitalization of members for treatment of wounds, illness, or injury'' for ''family members incident to illness or injury of members'' in section catchline.

Subsec. (a). Pub. L. 111–84, §632(f)(1), inserted heading.

Subsec. (a)(1). Pub. L. 111–84, §632(a)(1), substituted ''individuals who, with respect to a member described in paragraph (2), are designated individuals for that member'' for ''family members of a member described in paragraph (2)'', '', with respect to any such individual, that the presence of such individual'' for ''that the presence of the family member'', and ''of designated individuals'' for ''of family members''.

Subsec. (a)(2)(B)(i). Pub. L. 111–84, §632(c)(1)(A), (2)(A), (d)(1), inserted ''seriously wounded,'' after ''(i) is'' and ''(including having a serious mental disorder)'' after ''seriously injured'' and struck out ''in or outside the United States'' after ''medical facility''.

Subsec. (a)(2)(B)(ii). Pub. L. 111–84, §632(c)(1)(B), (2)(B), substituted ''a wound or an injury'' for ''an injury'' and ''that wound or injury'' for ''that injury'' and struck out ''in the United States'' after ''facility''.

Subsec. (a)(3). Pub. L. 111–84, §632(e), amended par. (3) generally. Prior to amendment par. (3) read as follows: ''Not more than one roundtrip may be provided to a family member under paragraph (1) on the basis of clause (ii) of paragraph (2)(B).''

Subsec. (a)(4). Pub. L. 111–84, §632(a)(2), added par. (4).

Subsec. (b). Pub. L. 111–84, §632(f)(2)(A), inserted heading.

Subsec. (b)(1). Pub. L. 111–84, §632(b)(1), substituted '' 'designated individual' '' for '' 'family member' '' in introductory provisions, added subpars. (A) and (B), and struck out former subpars. (A) to (E) which defined ''family member.''

Subsec. (b)(2). Pub. L. 111–84, §632(b)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Parents of a member or persons in loco parentis to a member include fathers and mothers through adoption and persons who stood in loco parentis to the member for a period not less than one year immediately before the member entered the uniformed service. However, only one father and one mother or their counterparts in loco parentis may be recognized in any one case.''

Subsec. (b)(3). Pub. L. 111–84, §632(f)(2)(B), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b)(4). Pub. L. 111–84, §632(d)(2), added par. (4).

Subsec. (c). Pub. L. 111–84, §632(f)(3)(A), inserted heading.

Subsec. (c)(1). Pub. L. 111–84, §632(f)(3)(B), substituted ''designated individual'' for ''family member''.

Subsec. (d). Pub. L. 111–84, §632(f)(4), inserted heading.

2006—Subsec. (a)(2)(B)(ii). Pub. L. 109–163 struck out ''under section 1967(e)(1)(A) of title 38'' after ''Secretary of Defense''.

Subsec. (b)(1)(E). Pub. L. 109–364 added subpar. (E).

2005—Pub. L. 109–13, §1026(b)(1), amended section catchline generally. Prior to amendment, catchline read as follows: ''Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members''.

Subsec. (a)(2)(B), (C). Pub. L. 109–13, §1026(a)(1)(B), added subpar. (B) and struck out former subpars. (B) and (C) which read as follows:

''(B) is seriously ill, seriously injured, or in a situation of imminent death, whether or not electrical brain activity still exists or brain death is declared; and

''(C) is hospitalized in a medical facility in or outside the United States.''

Subsec. (a)(3). Pub. L. 109–13, §1026(a)(2), added par. (3).

2004—Subsec. (a)(1). Pub. L. 108–375, §632(a), (b)(1), inserted ''travel and'' before ''transportation'', substituted ''three family members'' for ''two family members'', and inserted second sentence.

Subsec. (c). Pub. L. 108–375, §632(b)(2), designated existing provisions as par. (1) and added par. (2).

2003—Subsec. (a)(1). Pub. L. 108–136, §632(1), substituted ''control'' for ''military control''.

Subsec. (a)(2)(A). Pub. L. 108–136, §632(2), substituted '', is entitled'' for ''or is entitled'' and inserted before semicolon at end '', or is retired for the illness or injury referred to in subparagraph (B)''.

1994—Subsec. (a)(1). Pub. L. 103–337, §624(a)(1), substituted ''may contribute to'' for ''is necessary for''.

Subsec. (a)(2)(B). Pub. L. 103–337, §624(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: ''is seriously ill or seriously injured; and''.

Subsec. (b)(3). Pub. L. 103–337, §624(b), added par. (3).

1988—Subsec. (a)(2). Pub. L. 100–456 amended par. (2) generally, inserting ''or is entitled to pay and allowances under section 204(g) of this title (or would be so entitled were it not for offsetting earned income described in that section)'' in subpar. (A).

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title VI, §632(i), Oct. 28, 2009, 123 Stat. 2362, provided that: ''No reimbursement may be provided under section 411h of title 37, United States Code, by reason of the amendments made by this section [amending this section and provisions set out as a note under section 1071 of Title 10, Armed Forces] for travel and transportation costs incurred before the date of the enactment of this Act [Oct. 28, 2009].''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VI, §655(c), Jan. 6, 2006, 119 Stat. 3314, provided that: ''The amendments made by this section [amending this section and repealing provisions set out as notes under this section] shall take effect on the earlier of the following:

''(1) The date of the enactment of this Act [Jan. 6, 2006].

''(2) The date specified in section 106(3) of Public Law 109–77 (119 Stat. 2039) [Dec. 31, 2005].''

EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENTS

Pub. L. 109–77, §115, Sept. 30, 2005, 119 Stat. 2040, provided that: ''The provisions of, and amendments made by, sections 1011, 1012, 1013, 1023, and 1026 of Public Law 109–13 [amending this section, section 1478 of Title 10, Armed Forces, and sections 1967, 1969, 1970, and 1977 of Title 38, Veterans' Benefits, and enacting provisions set out as notes under this section, section 1478 of Title 10, and section 1967 of Title 38] shall continue in effect, notwithstanding the fiscal year limitation in section 1011 [119 Stat. 244] and the provisions of sections 1012(i), 1013(e), 1023(c), and 1026(e) of that Public Law [enacting

provisions set out as notes under this section, section 1478 of Title 10, and section 1967 of Title 38], through the earlier of: (1) the date specified in section 106(3) of this joint resolution [Dec. 31, 2005]; or (2) with respect to any such section of Public Law 109–13, the date of the enactment into law of legislation that supersedes the provisions of, or the amendments made by, that section.''

Pub. L. 109–13, div. A, title I, § 1026(e), May 11, 2005, 119 Stat. 255, which provided that the amendments made by section 1026 of Pub. L. 109–13 (amending this section) were to terminate Sept. 30, 2005, and that effective Oct. 1, 2005, the provisions of section 411h of title 37 as in effect on the date before the date of the enactment of this Act (May 11, 2005) were to be revived, was repealed by Pub. L. 109–163, div. A, title VI, § 655(a), Jan. 6, 2006, 119 Stat. 3314. See Effective Date of 2006 Amendment note and section 115 of Pub. L. 109–77 set out above.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title VI, § 632(c), Oct. 28, 2004, 118 Stat. 1956, provided that: ''Section 411h of title 37, United States Code, as amended by this section, shall apply to travel and transportation authorized under such section that is provided on or after October 1, 2004, to family members of a member of the Armed Forces who is ill or injured as described in such section.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 effective Oct. 1, 1988, see section 632(c) of Pub. L. 100–456, set out as a note under section 411f of this title.

EFFECTIVE DATE

Section 615(b) of Pub. L. 100–180 provided that: ''The authority to provide transportation or to pay transportation expenses under section 411h of title 37, United States Code, as added by subsection (a), shall be effective only with respect to travel that occurs on or after the effective date of regulations prescribed under such section.''

REPORT ON TRAVEL IN EXCESS OF CERTAIN LIMIT

Pub. L. 109–13, div. A, title I, § 1026(d), May 11, 2005, 119 Stat. 255, which provided that if in any fiscal year the amount of travel provided in such fiscal year under this section by reason of the amendments made by section 1026 of Pub. L. 109–13 exceeded $20,000,000, the Secretary of Defense was to submit to the congressional defense committees a report on that fact, was repealed by Pub. L. 109–163, div. A, title VI, § 655(a), Jan. 6, 2006, 119 Stat. 3314.

## § 411i. Travel and transportation allowances: parking expenses

(a) REIMBURSEMENT AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may reimburse eligible Department of Defense personnel for expenses incurred after October 1, 2001, for parking a privately owned vehicle at a place of duty described in subsection (b).

(b) ELIGIBILITY.—A member of the Army, Navy, Air Force, or Marine Corps or an employee of the Department of Defense may be reimbursed under subsection (a) for parking expenses while—

(1) assigned to duty as a recruiter for any of the armed forces;

(2) assigned to duty at a military entrance processing facility of the armed forces; or

(3) detailed for instructional and administrative duties at any institution where a unit of the Senior Reserve Officers' Training Corps is maintained.

(Added Pub. L. 106–398, § 1 [[div. A], title VI, § 645(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–161.)

## § 411j. Travel and transportation allowances: transportation of family members incident to the repatriation of members held captive

(a) ALLOWANCE FOR FAMILY MEMBERS AND CERTAIN OTHERS.—(1) Under uniform regulations prescribed by the Secretaries concerned, travel and transportation described in subsection (d) may be provided for not more than three family members of a member described in subsection (b).

(2) In addition to the family members authorized to be provided travel and transportation under paragraph (1), the Secretary concerned may provide travel and transportation described in subsection (d) to an attendant to accompany a family member described in that paragraph if the Secretary determines that—

(A) the family member to be accompanied is unable to travel unattended because of age, physical condition, or other reason determined by the Secretary; and

(B) no other family member who is eligible for travel and transportation under paragraph (1) is able to serve as an attendant for the family member.

(3) If no family member of a member described in subsection (b) is able to travel to the repatriation site of the member, travel and transportation described in subsection (d) may be provided to not more than 2 persons related to and selected by the member.

(4) In circumstances determined to be appropriate by the Secretary concerned, the Secretary may waive the limitation on the number of family members of a member provided travel and transportation allowances under this section.

(b) COVERED MEMBERS.—A member described in this subsection is a member of the uniformed services who—

(1) is serving on active duty;

(2) was held captive, as determined by the Secretary concerned; and

(3) is repatriated to a site inside or outside the United States.

(c) ELIGIBLE FAMILY MEMBERS.—In this section, the term ''family member'' has the meaning given the term in section 411h(b) of this title.

(d) TRAVEL AND TRANSPORTATION AUTHORIZED.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member (or home of the attendant or person provided transportation under paragraph (2) or (3) of subsection (a), as the case may be) and the location of the repatriation site at which the member is located.

(2) In addition to the transportation authorized by subsection (a), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established for such allowances and expenses under section 404(d) of this title.

(3) The transportation authorized by subsection (a) may be provided by any of the means described in section 411h(d)(1) of this title.

(4) An allowance under this subsection may be paid in advance.

(5) Reimbursement payable under this subsection may not exceed the cost of Government-procured round-trip air travel.

(Added Pub. L. 109–163, div. A, title VI, §653(a), Jan. 6, 2006, 119 Stat. 3312.)

### §411k. Travel and transportation allowances: non-medical attendants for members who are determined to be very seriously or seriously wounded, ill, or injured

(a) ALLOWANCE FOR NON-MEDICAL ATTENDANT.—Under uniform regulations prescribed by the Secretaries concerned, travel and transportation described in subsection (d) may be provided for a qualified non-medical attendant for a covered member of the uniformed services described in subsection (c) if the attending physician or surgeon and the commander or head of the military medical facility exercising control over the member determine that the presence of such an attendant may contribute to the member's health and welfare.

(b) QUALIFIED NON-MEDICAL ATTENDANT.—For purposes of this section, a qualified non-medical attendant, with respect to a covered member, is an individual who—

(1) is designated by the member to be a non-medical attendant for the member for purposes of this section; and

(2) is determined by the attending physician or surgeon and the commander or head of the military medical facility to be appropriate to serve as a non-medical attendant for the member and whose presence may contribute to the health and welfare of the member.

(c) COVERED MEMBERS.—A member of the uniformed services covered by this section is a member who—

(1) as a result of a wound, illness, or injury, has been determined by the attending physician or surgeon to be in the category known as ''very seriously wounded, ill, or injured'' or ''seriously wounded, ill, or injured''; and

(2) is hospitalized for treatment of the wound, illness, or injury or requires continuing outpatient treatment for the wound, illness, or injury.

(d) AUTHORIZED TRAVEL AND TRANSPORTATION.—(1) The transportation authorized by subsection (a) for a qualified non-medical attendant for a member is round-trip transportation between the home of the attendant and the location at which the member is receiving treatment and may include transportation, while accompanying the member, to any other location to which the member is subsequently transferred for further treatment. A designated non-medical attendant under this section may not also be a designated individual for travel and transportation allowances[1] section 411h(a) of this title.

(2) The transportation authorized by subsection (a) includes any travel necessary to obtain treatment for the member at the location to which the member is permanently assigned.

(3) In addition to the transportation authorized by subsection (a), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established under section 404(d) of this title.

(4) The transportation authorized by subsection (a) may be provided by any of the following means:

(A) Transportation in-kind.

(B) A monetary allowance in place of transportation in-kind at a rate to be prescribed by the Secretaries concerned.

(C) Reimbursement for the commercial cost of transportation.

(5) An allowance payable under this subsection may be paid in advance.

(6) Reimbursement payable under this subsection may not exceed the cost of Government-procured commercial round-trip air travel.

(Added Pub. L. 111–84, div. A, title VI, §633(a)(1), Oct. 28, 2009, 123 Stat. 2362.)

EFFECTIVE DATE

Pub. L. 111–84, div. A, title VI, §633(b), Oct. 28, 2009, 123 Stat. 2363, provided that: ''No reimbursement may be provided under section 411k of title 37, United States Code, as added by subsection (a), for travel and transportation costs incurred before the date of the enactment of this Act [Oct. 28, 2009].''

### §412. Appropriations for travel: may not be used for attendance at certain meetings

Appropriations of the Department of Defense that are available for travel may not, without the approval of the Secretary concerned or his designee, be used for expenses incident to attendance of a member of an armed force under that department at a meeting of a technical, scientific, professional, or similar organization.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 476.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 412 ..... | 5:174a. | Aug. 1, 1953, ch. 305, §605, 67 Stat. 349. |

The words ''may not . . . be used'' are substituted for the words ''shall not be available''. The words ''on and after August 1, 1953'' are omitted as executed. The words ''Secretary concerned'' are substituted for the words ''Secretary of the department concerned'' to conform to other sections of this revised title and to the definition in section 101(5) of this revised title. So much of the source statute as relates to civilian employees is omitted as superseded by the Act of July 7, 1958, Pub. L. 85–507, 72 Stat. 327.

PRIOR PROVISIONS

Act Aug. 1, 1953, cited as the source of this section in the Historical and Revision Notes above, is known as the Department of Defense Appropriation Act, 1954. Similar provisions were contained in the following prior appropriation acts:

July 10, 1952, ch. 630, title VI, §606, 66 Stat. 531.
Oct. 18, 1951, ch. 512, title VI, §606, 65 Stat. 445.
Sept. 6, 1950, ch. 896, ch. X, title VI, §607, 64 Stat. 752.
Oct. 29, 1949, ch. 787, title VI, §607, 63 Stat. 1018.
June 24, 1948, ch. 632, 62 Stat. 652.

[1] So in original. Probably should be followed by ''under''.

July 30, 1947, ch. 357, title I, 61 Stat. 554.
July 16, 1946, ch. 583, 60 Stat. 545.
July 3, 1945, ch. 265, 59 Stat. 388.
June 28, 1944, ch. 303, 58 Stat. 577.

### § 413. Chairman and Vice Chairman of the Joint Chiefs of Staff

The Chairman and Vice Chairman of the Joint Chiefs of Staff are entitled to the allowances provided by law for the Chief of Staff of the Army.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 100–180, div. A, title XIII, § 1314(c)(1), Dec. 4, 1987, 101 Stat. 1176.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 413 ..... | 10:142(d) (less applicability to basic pay). | [None.] |

AMENDMENTS

1987—Pub. L. 100–180, in amending section generally, in section catchline inserted ''and Vice Chairman'', and in text inserted ''and Vice Chairman'' and substituted ''are'' for ''is''.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 1314(e)(2) of Pub. L. 100–180 provided that: ''The amendments made by subsections (c)(1), (d)(3), and (d)(4) [amending this section and provisions set out as notes under sections 431 and 1009 of this title] shall take effect as of October 1, 1986.''

### § 414. Personal money allowance

(a) ALLOWANCE FOR OFFICERS SERVING IN CERTAIN RANKS OR POSITIONS.—In addition to other pay or allowances authorized by this title, an officer who is entitled to basic pay is entitled to a personal money allowance of—

(1) $500 a year, while serving in the grade of lieutenant general or vice admiral, or in an equivalent grade or rank;

(2) $1,200 a year, in place of any other personal money allowance authorized by this section while serving as Surgeon General of the Public Health Service;

(3) $2,200 a year, in addition to the personal money allowance authorized by clause (1), while serving as a senior member of the Military Staff Committee of the United Nations;

(4) $2,200 a year, while serving in the grade of general or admiral, or in an equivalent grade or rank; or

(5) $4,000 a year, in place of any other personal money allowance authorized by this section, while serving as Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard.

(b) ALLOWANCE FOR CERTAIN NAVAL OFFICERS.—In addition to other pay or allowances authorized by law, an officer who is serving in one of the following positions is entitled to the amount set forth for that position, to be paid annually out of naval appropriations for pay, and to be spent in his discretion for the contingencies of his position—

(1) President of the Naval Postgraduate School—$400;

(2) Commandant of Midshipmen at the Naval Academy—$800;

(3) President of the Naval War College—$1,000;

(4) Superintendent of the Naval Academy—$5,200; and

(5) Director of Naval Intelligence—$5,200.

(c) ALLOWANCE FOR SENIOR ENLISTED MEMBERS.—In addition to other pay or allowances authorized by this title, a noncommissioned officer is entitled to a personal money allowance of $2,000 a year while serving as the Sergeant Major of the Army, the Master Chief Petty Officer of the Navy, the Chief Master Sergeant of the Air Force, the Sergeant Major of the Marine Corps, the Master Chief Petty Officer of the Coast Guard, or the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 89–718, § 49(a)(2), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 102–25, title VII, § 702(b)(2), Apr. 6, 1991, 105 Stat. 117; Pub. L. 106–398, § 1 [[div. A], title VI, § 609(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–149; Pub. L. 108–375, div. A, title V, § 557(a)(2), Oct. 28, 2004, 118 Stat. 1915; Pub. L. 109–148, div. A, title VIII, § 8124(b), Dec. 30, 2005, 119 Stat. 2727; Pub. L. 109–163, div. A, title VI, § 685(c), Jan. 6, 2006, 119 Stat. 3325; Pub. L. 109–364, div. A, title X, § 1071(c)(7), Oct. 17, 2006, 120 Stat. 2401.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 414(a) ..... | 37:254. | Oct. 12, 1949, ch. 681, § 304, 63 Stat. 816; Aug. 10, 1956, ch. 1041, § 20(c), 70A Stat. 627; May 20, 1958, Pub. L. 85–422, § 1(11), 72 Stat. 127; Sept. 14, 1961, Pub. L. 87–233, § 3, 75 Stat. 507. |
| 414(b) ..... | 37:257. | Aug. 2, 1946, ch. 756, § 3, 60 Stat. 853. |

In subsection (b), the words ''pay or'' are inserted to conform to subsection (a). The word ''position'' is substituted for the words ''capacities'' and ''officers'', respectively. In clause (1), the words ''Superintendent of the Naval Postgraduate School'' are substituted for the words ''Head of the Postgraduate school at the Naval Academy'' to reflect present terminology.

AMENDMENTS

2006—Subsec. (c). Pub. L. 109–364 struck out before period at end '', or the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff''.

Pub. L. 109–163, § 685(c)(2) inserted before period at end '', or the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff''.

Pub. L. 109–163, § 685(c)(1), which directed that subsec. (c) be amended by striking ''or'' after ''Sergeant Major of the Marine Corps,'' could not be executed because of prior amendment by Pub. L. 109–148. See below.

2005–Subsec. (c). Pub. L. 109–148 substituted ''the Master Chief Petty Officer of the Coast Guard, or the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff'' for ''or the Master Chief Petty Officer of the Coast Guard''.

2004—Subsec. (b)(1). Pub. L. 108–375 substituted ''President of the Naval Postgraduate School'' for ''Superintendent of the Naval Postgraduate School''.

2000—Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title VI, § 609(b)(1)], inserted heading.

Subsec. (b). Pub. L. 106–398, § 1 [[div. A], title VI, § 609(b)(2)], inserted heading.

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title VI, §609(a)], added subsec. (c).

1991—Subsec. (a)(3). Pub. L. 102–25 struck out ''of this subsection'' after ''clause (1)''.

1966—Subsec. (a)(2). Pub. L. 89–718 struck out reference to service as the Director of the Coast and Geodetic Survey.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title VI, §609(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–149, provided that: ''The amendments made by this section [amending this section] shall take effect on October 1, 2000.''

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), 551(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.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service, transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

## §415. Uniform allowance: officers; initial allowance

(a) Subject to subsection (b), an officer of an armed force is entitled to an initial allowance of not more than $400 as reimbursement for the purchase of required uniforms and equipment—

(1) upon first reporting for active duty (other than for training) for a period of more than 90 days;

(2) upon completing at least 14 days of active duty as a member of a reserve component;

(3) upon completing 14 periods, each of which was of at least two hours' duration, of inactive-duty training as a member of the Ready Reserve; or

(4) upon reporting for the first period of active duty required by section 2121(c) of title 10 as a member of the Armed Forces Health Professions Scholarship program.

(b) An officer who has received an initial uniform reimbursement or allowance under any other law is not entitled to an initial allowance under subsection (a).

(c) An allowance of $250 for uniforms and equipment may be paid to each commissioned officer of the Public Health Service who is—

(1) on active duty or on inactive duty training status; and

(2) required by directive of the Surgeon General to wear a uniform.

An officer is not entitled to more than one allowance under this subsection.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 477; Pub. L. 88–647, title II, §202(3), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89–444, §2(1), June 9, 1966, 80 Stat. 198; Pub. L. 89–718, §63, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90–83, §5(1), Sept. 11, 1967, 81 Stat. 221; Pub. L. 91–278, §3(3), June 12, 1970, 84 Stat. 306; Pub. L. 96–76, title III, §313(c), Sept. 29, 1979, 93 Stat. 586; Pub. L. 96–513, title IV, §412, Dec. 12, 1980, 94 Stat. 2905; Pub. L. 97–22, §10(c), July 10, 1981, 95 Stat. 137; Pub. L. 97–60, title I, §131(a), Oct. 14, 1981, 95 Stat. 1005; Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 106–398, §1 [[div. A], title VI, §610(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–150.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 415(a) ..... | 37:255(a) (less provisos). | Oct. 12, 1949, ch. 681, §305(a) (less 1st proviso); added Aug. 10, 1956, ch. 1041, §20(d) (1st par., less 1st proviso), 70A Stat. 628. |
| 415(b) ..... | 37:255(a) (2d proviso). | |
| 415(c) ..... | 37:255(a) (last proviso). | |
| 415(d) ..... | 42:214. | July 1, 1944, ch. 373, §213; restated Apr. 27, 1956, ch. 211, §2(a), 70 Stat. 116. |
| 415(e) ..... | 37:256. | Oct. 12, 1949, ch. 681, §306; added Aug. 10, 1956, ch. 1041, §20(d) (last par.), 70A Stat. 629. |
| | [Uncodified.] | Aug. 7, 1947, ch. 512, §302(f), 61 Stat. 830. |

In subsection (a), the words ''Subject to subsections (b) and (c) of this section,'' are inserted for clarity. The words ''of an armed force'' are inserted, since the source section, as originally enacted, did not apply to the Public Health Service or the Coast and Geodetic Survey. (See section 243 of the Armed Forces Reserve Act of 1952 (66 Stat. 492).) The words ''of the Army, or the Air Force, without specification of component'' are inserted to reflect the definition of ''reserve component'' in section 102(k) of the source statute. That definition is executed throughout this revised title. For that reason, the words ''but not as a member of the Army without specification of component or the Air Force without specification of component, in section 255(a)(2) of existing title 37'', are omitted, and since those categories are excluded by the words ''member of a reserve component''. The words ''of a reserve component'', in section 255(a)(3) of existing title 37, are omitted, since the Ready Reserve cannot be in anything other than a reserve component.

In subsection (b), the words ''heretofore or hereafter'' are omitted as surplusage.

In subsection (c), the words ''An officer'' are substituted for the words ''any individual'', since the revised section applies only to officers.

In subsection (d), the words ''who is in pay grade O–1, O–2, or O–3'' are substituted for the words ''is receiving the pay of the junior assistant, assistant, or senior assistant grade'' to reflect current terminology. (See chapter 3 of this revised title.) The last sentence is substituted for section 214 (words following semicolon) of title 14.

In subsection (e), the words ''as a temporary officer'' are inserted for clarity. The words ''5596 or'' are substituted for section 302(f) of the Act of August 7, 1947, cited above.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–398 substituted ''$400'' for ''$200'' in introductory provisions.

1991—Subsecs. (a), (b). Pub. L. 102–25 struck out ''of this section''.

1981—Subsec. (a). Pub. L. 97–22 substituted ''subsection (b) of this section'' for ''subsections (b) and (c) of this section''.

Subsec. (a)(4). Pub. L. 97–60 added par. (4).

1980—Subsec. (a). Pub. L. 96–513, §412(1), (2), substituted ''an officer of an armed force is entitled'' for ''a reserve officer of an armed force, an officer of the

Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106 or 2107 of title 10 is entitled''.

Subsecs. (c), (d). Pub. L. 96–513, § 412(3), (4), redesignated subsec. (d) as (c). Former subsec. (c), relating to limitations on qualifications for initial allowances by certain officers, was struck out.

Subsec. (e). Pub. L. 96–513, § 412(3), struck out subsec. (e) relating to uniform allowances for temporary officers or warrant officers.

1979—Subsec. (d). Pub. L. 96–76 in cl. (1) inserted provisions for applicability to officers on inactive duty training status, and struck out cl. (3) setting forth applicability to officers entitled to basic pay of pay grade O–1, O–2, or O–3.

1970—Subsec. (e). Pub. L. 91–278 provided for entitlement to uniform allowance of enlisted member appointed a warrant officer under section 213 of title 14.

1967—Subsec. (d)(3). Pub. L. 90–83 substituted ''entitled to the basic pay'' for ''is entitled to the basic pay''.

1966—Subsec. (a). Pub. L. 89–718 struck out '', United States Code,'' after ''title 10''.

Subsec. (e). Pub. L. 89–444 substituted ''section 214 of title 14'' for ''section 435 of title 14''.

1964—Subsec. (a). Pub. L. 88–647 included a regular officer of an armed force appointed under section 2106 or 2107 of title 10.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title VI, § 610(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–150, provided that: ''The amendments made by this section [amending this section and section 416 of this title] shall take effect on October 1, 2000.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 10(c) of Pub. L. 97–22 provided that the amendment made by that section is effective Sept. 15, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by section 412 of Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–76 effective Oct. 1, 1979, see section 314 of Pub. L. 96–76, set out as a note under section 206 of Title 42, The Public Health and Welfare.

TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and all functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

## § 416. Uniform allowance: officers; additional allowances

(a) In addition to the allowance provided by section 415 of this title, a reserve officer of an armed force, an officer of the Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106 or 2107 of title 10 is entitled to not more than $200 as reimbursement for additional uniforms and equipment required on that duty, for each time that the officer enters on active duty for a period of more than 90 days.

(b) Subsection (a) does not apply to a tour of active duty if—

(1) the officer, during that tour or within a period of two years before entering on that tour, received, under any law, an initial uniform reimbursement or allowance of more than $400; or

(2) the officer enters on that tour within two years after completing a period of active duty of more than 90 days' duration.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 477; Pub. L. 88–624, § 1, Oct. 3, 1964, 78 Stat. 1002; Pub. L. 88–647, title II, § 202(3), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89–718, § 63, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 96–513, title V, § 516(13), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 101–189, div. A, title VI, § 663(a), Nov. 29, 1989, 103 Stat. 1465; Pub. L. 106–398, § 1 [[div. A], title VI, § 610(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–150; Pub. L. 107–107, div. A, title VI, § 606(a), Dec. 28, 2001, 115 Stat. 1134.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 416(a) ..... | 37:255(b). | Oct. 12, 1949, ch. 681, § 305(b), (c); added Aug. 10, 1956, ch. 1041, § 20(d) (2d and 3d pars.), 70A Stat. 628; Sept. 2, 1958, Pub. L. 85–861, § 33(f), 72 Stat. 1568. |
| 416(b) ..... | 37:255(c). | |

In subsection (a), the words ''In addition to the initial uniform allowance authorized by section 431 (a)–(d) of this title'' are substituted for the word ''additional''. Section 255(b) (last proviso of 1st sentence) of existing title 37 is omitted as executed. The words ''may not be included'' are substituted for the words ''shall be excluded''. Section 255(b) (last sentence) of existing title 37 is omitted, since the categories named therein are excluded by the words ''a reserve officer''. (See revision note for section 415(a) of this revised title.)

In subsection (b), the introductory clause is substituted for the word ''further''. The words ''of an armed force'' and ''of the Army, or the Air Force, without specification of component'' are inserted for the reasons stated in the revision note for section 415(a) of this revised title. Clauses (1) and (2) are substituted for section 255(c) (provisos) of existing title 37.

AMENDMENTS

2001—Subsec. (b)(1). Pub. L. 107–107 substituted ''$400'' for ''$200''.

2000—Subsec. (a). Pub. L. 106–398 substituted ''$200'' for ''$100''.

1989—Subsec. (a). Pub. L. 101–189 redesignated first sentence of subsec. (b) as (a), substituted ''section 415 of this title'' for ''section 415(a)–(c) of this title and subsection (a) of this section'' and ''the officer'' for ''he'', and struck out former subsec. (a) which read as follows: ''In addition to the initial uniform allowance authorized by section 415(a)–(c) of this title, a reserve officer of an armed force who has not become entitled to a uniform reimbursement or allowance as an officer during the preceding four years, is entitled to not more than $50 as reimbursement for the purchase of required uniforms and equipment, upon completion of each period, after July 9, 1952, of four years of service, as prescribed by section 1332(a)(2) of title 10, in an active status in one or more reserve components, including at least 28 days of active duty. However, periods of active duty of more than 90 days may not be included in computing that four years of service.''

Subsec. (b). Pub. L. 101–189 redesignated first sentence of subsec. (b) as (a) and in remaining provisions

of subsec. (b) substituted ''Subsection (a) does not apply'' for ''However, this subsection does not apply''.

1980—Pub. L. 96–513 substituted ''additional allowances'' for ''additional allowance'' in section catchline.

1966—Subsec. (b). Pub. L. 89–718 struck out '', United States Code,'' after ''title 10''.

1964—Subsec. (a). Pub. L. 88–624 substituted ''in one or more reserve components'' for ''in a reserve component'' and ''section 1332(a)(2)'' for ''section 1332''.

Subsec. (b). Pub. L. 88–647 included a regular officer of an armed force appointed under section 2106 or 2107 of title 10.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VI, §606(b), Dec. 28, 2001, 115 Stat. 1134, provided that: ''The amendment made by this section [amending this section] shall take effect as of October 1, 2000.''

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–398 effective Oct. 1, 2000, see section 1 [[div. A], title VI, §610(c)] of Pub. L. 106–398, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

SAVE PAY PROVISION

Section 663(b) of Pub. L. 101–189 provided that: ''An officer of an armed force who, but for the amendments made by subsection (a) [amending this section], would have become entitled to a uniform reimbursement under section 416(a) of title 37, United States Code, before the end of the one-year period beginning on the date of the enactment of this Act [Nov. 29, 1989] shall be entitled (during such one-year period) to receive such reimbursement under such section as in effect on the day before the date of the enactment of this Act.''

ALLOWANCE FOR SERVICE PRIOR TO OCTOBER 3, 1964

Section 2 of Pub. L. 88–624 provided that: ''The amendments made by this Act [amending this section] do not entitle an officer to an allowance for any 4-year period of service completed prior to the effective date of this Act [Oct. 3, 1964].''

## §417. Uniform allowance: officers; general provisions

(a) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department may prescribe regulations that he considers necessary to carry out sections 415(a)–(c) and 416 of this title within his department. The Secretary of Homeland Security, with the concurrence of the Secretary of the Navy, may prescribe regulations that he considers necessary to carry out those sections for the Coast Guard when it is not operating as a service in the Navy. As far as practicable, regulations for all reserve components shall be uniform.

(b) Under regulations approved by the Secretary of Defense, or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, and subject to section 415(a)–(c) or 416 of this title, a reserve officer of an armed force who has received a uniform and equipment allowance under section 415(a)–(c) or 416 of this title, may if a different uniform is required, be paid a uniform and equipment reimbursement upon transfer to, or appointment in, another reserve component.

(c) For the purposes of sections 415(a)–(c) and 416 of this title and subsections (a) and (b), an officer may count only that duty for which he is required to wear a uniform.

(d)(1) For purposes of sections 415 and 416 of this title, a period for which an officer of an armed force, while employed as a National Guard technician, is required to wear a uniform under section 709(b) of title 32 shall be treated as a period of active duty (other than for training).

(2) A uniform allowance may not be paid, and uniforms may not be furnished, to an officer under section 1593 of title 10 or section 5901 of title 5 for a period of employment referred to in paragraph (1) for which an officer is paid a uniform allowance under section 415 or 416 of this title.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 478; Pub. L. 90–623, §3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title X, §1038(b), Feb. 10, 1996, 110 Stat. 432; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 417(a) ..... | 37:255(e). | Oct. 12, 1949, ch. 681, §305 (1st proviso of (a)), (d), (e); added Aug. 10, 1956, ch. 1041, §20(d) (1st proviso of 1st par., 4th par., and 5th par.), 70A Stat. 629. |
| 417(b) ..... | 37:255(d). | |
| 417(c) ..... | 37:255(a) (1st proviso). | |

In subsection (a), the words ''within that department'' are inserted for clarity. The words ''may prescribe'' are substituted for the words ''shall prescribe'', since the words ''that he considers necessary'' indicate that the prescribing of regulations is not mandatory.

Subsection (b) is substituted for section 255(d) (less last sentence) of existing title 37. Section 255(d) last sentence) of existing title 37 is omitted, since the categories named therein are excluded by the words ''a reserve officer''. (See revision note for section 415(a) of this revised title.)

AMENDMENTS

2002—Subsecs. (a), (b). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1996—Subsec. (d). Pub. L. 104–106 added subsec. (d).

1991—Subsec. (c). Pub. L. 102–25 struck out ''of this section'' after ''subsections (a) and (b)''.

1968—Subsecs. (a), (b). Pub. L. 90–623 substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

## §418. Clothing allowance: enlisted members

(a) The Secretary of Defense and the Secretary of Homeland Security, with respect to the Coast

Guard when it is not operating as a service in the Navy, may prescribe the quantity and kind of clothing to be furnished annually to an enlisted member of the armed forces or the National Guard, and may prescribe the amount of a cash allowance to be paid to such a member if clothing is not so furnished to him.

(b) In determining the quantity and kind of clothing or allowances to be furnished pursuant to regulations prescribed under this section to persons employed as National Guard technicians under section 709 of title 32, the Secretary of Defense shall take into account the requirement under subsection (b) of such section for such persons to wear a uniform.

(c) A uniform allowance may not be paid, and uniforms may not be furnished, under section 1593 of title 10 or section 5901 of title 5 to a person referred to in subsection (b) for a period of employment referred to in that subsection for which clothing is furnished or a uniform allowance is paid under this section.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 478; Pub. L. 104–106, div. A, title X, § 1038(c), Feb. 10, 1996, 110 Stat. 432; Pub. L. 104–201, div. A, title VI, § 654, Sept. 23, 1996, 110 Stat. 2583; Pub. L. 106–398, § 1 [[div. A], title VI, § 611], Oct. 30, 2000, 114 Stat. 1654, 1654A–150; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 418 ..... | 37:305. | Oct. 12, 1949, ch. 681, § 505, 63 Stat. 828. |

The words ''the armed forces'' are substituted for the words ''the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard'' to conform to the definition in section 101(4) of this title. The words ''the Naval Reserve, the Marine Corps Reserve, . . . the National Guard of the United States, the Air National Guard of the United States, the Army Reserve, the Air Force Reserve, and the Coast Guard Reserve'' are omitted, since, under the definitions of the armed forces concerned in sections 3062(c), 5001(a)(1) and (2), and 8062(d) of title 10, and section 751a of title 14, those organizations, or their successors, are components of the armed force concerned.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

2000—Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title VI, § 611(1)], substituted ''The Secretary of Defense and the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy,'' for ''The President''.

Subsec. (b). Pub. L. 106–398, § 1 [[div. A], title VI, § 611(2)], substituted ''the Secretary of Defense'' for ''the President''.

1996—Pub. L. 104–106 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

Subsec. (c). Pub. L. 104–201 substituted ''for which clothing is furnished or a uniform allowance is paid under this section'' for ''for which a uniform allowance is paid under section 415 or 416 of this title''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EX. ORD. NO. 10113. CLOTHING ALLOWANCES FOR ENLISTED PERSONNEL

Ex. Ord. No. 10113, Feb. 24, 1950, 15 F.R. 1065, as amended by Ex. Ord. No. 13286, § 83, Feb. 28, 2003, 68 F.R. 10631, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the armed forces, it is ordered as follows:

1. The Secretary of Defense with respect to enlisted men of the Army, the Navy, the Air Force, the Marine Corps, the Naval Reserve [now Navy Reserve], the Marine Corps Reserve, the National Guard, the Air National Guard, the National Guard of the United States, the Air National Guard of the United States, the Organized Reserve Corps [Army Reserve] and the Air Force Reserve, and the Secretary of Homeland Security with respect to enlisted men of the Coast Guard and the Coast Guard Reserve, are hereby authorized and directed, after appropriate consultation with the Director of the Bureau of the Budget [now Director of the Office of Management and Budget], to perform the functions vested in the President by section 505 of the Career Compensation Act of 1949, approved October 12, 1949 (Public Law 351, 81st Congress) [this section], relative to prescribing the quantity and kind of clothing which shall be furnished annually to enlisted men of the aforesaid services and relative to prescribing the amount of the cash allowance to be paid to such enlisted men in any case in which clothing is not so furnished to them.

2. The quantity and kind of clothing, and any cash allowances in lieu thereof, prescribed by the Secretary of Homeland Security hereunder with respect to the Coast Guard and the Coast Guard Reserve shall, so far as practicable, be in conformity with those prescribed by the Secretary of Defense with respect to the Navy and Naval Reserve [now Navy Reserve], respectively.

3. Existing regulations prescribing the quantity and kind of clothing furnished, and any cash allowances in lieu thereof, shall remain in effect until modified, revoked, or superseded by action taken pursuant to this order.

4. The term ''enlisted men'' as used in this order shall be deemed to apply to enlisted persons of either sex.

5. This order shall become effective on April 1, 1950, and on that date shall supersede Executive Order No. 10049 [Apr. 4, 1949, 14 F.R. 1563] entitled ''Delegating the Authority of the President to Prescribe Clothing Allowances, and Cash Allowances in Lieu Thereof, to Enlisted Men in the Armed Forces.''

## § 419. Civilian clothing allowance

Under regulations prescribed by the Secretary of Defense, an officer of an armed force who is assigned to a permanent duty station at a location outside the United States may be paid a civilian clothing allowance in such amount as the Secretary shall determine under regulations if such officer is required to wear civilian clothing all or a substantial portion of the time in the performance of the officer's official duties. A clothing allowance under this section is in addition to any uniform allowance to which an officer is otherwise entitled under this title.

(Added Pub. L. 100–180, div. A, title VI, § 611(a)(1)(B), Dec. 4, 1987, 101 Stat. 1093; amended Pub. L. 100–456, div. A, title VI, § 625, Sept. 29, 1988, 102 Stat. 1984; Pub. L. 101–189, div. A, title VI, § 653(c)(2), Nov. 29, 1989, 103 Stat. 1462.)

PRIOR PROVISIONS

A prior section 419 was renumbered section 420 of this title.

AMENDMENTS

1989—Pub. L. 101–189 substituted ''an officer'' for ''a officer'' in two places and struck out ''to'' after ''may be paid''.

1988—Pub. L. 100–456 substituted ''officer'' for ''member'' in three places, ''may be paid'' for ''is entitled'', and ''officer's'' for ''member's''.

EFFECTIVE DATE

Section 611(b) of Pub. L. 100–180 provided that: ''Section 419 of title 37, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Dec. 4, 1987]. No member may be paid a clothing allowance under such section for any period before such date.''

## §420. Allowances while participating in international sports

(a) Section 717 of title 10 does not authorize the payment of allowances at higher rates than those provided for participation in military activities not covered by that section.

(b) Notwithstanding any other law, a member of a uniformed service is not entitled to travel and transportation allowances under sections 404–411 of this title for any period during which his expenses for travel or transportation are being paid by the agency sponsoring his participation in a competition covered by section 717 of title 10.

(c) Notwithstanding any other law, a member of a uniformed service who has no dependents is not entitled to the basic allowances for subsistence and housing authorized by sections 402 and 403 of this title for a period during which he is subsisted and quartered by the agency sponsoring his participation in a competition covered by section 717 of title 10.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 478, §419; Pub. L. 89–718, §64, Nov. 2, 1966, 80 Stat. 1123; renumbered §420, Pub. L. 100–180, div. A, title VI, §611(a)(1)(A), Dec. 4, 1987, 101 Stat. 1093; Pub. L. 105–85, div. A, title VI, §603(d)(1)(C), Nov. 18, 1997, 111 Stat. 1782.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 419(a) ..... | 37:256a(a). | Oct. 12, 1949, ch. 681, §307; added Sept. 2, 1958, Pub. L. 85–861, §11, 72 Stat. 1556. |
| 419(b) ..... | 37:256a(b). | |
| 419(c) ..... | 37:256a(c). | |

PRIOR PROVISIONS

A prior section 420 was renumbered section 421 of this title.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–85 substituted ''housing'' for ''quarters''.

1966—Pub. L. 89–718 substituted ''section 717 of title 10'' for ''section 716 of title 10'' wherever appearing.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

## §421. Allowances: no increase while dependent is entitled to basic pay

A member of a uniformed service may not be paid an increased allowance under this chapter, on account of a dependent, for any period during which that dependent is entitled to basic pay under section 204 of this title.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 479, §420; renumbered §421, Pub. L. 100–180, div. A, title VI, §611(a)(1)(A), Dec. 4, 1987, 101 Stat. 1093.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 420 ..... | 37:231(g) (last proviso of last sentence). | Oct. 12, 1949, ch. 681, §102(g) (last proviso of last sentence), 63 Stat. 805. |

The words ''of a uniformed service'' are inserted for clarity. The words ''claiming a dependent as defined in this subsection'' are omitted as surplusage. The words ''under section 204 of this title'' are substituted for the words ''for the performance of duty as defined in section 232(e) of this revised title''.

PRIOR PROVISIONS

A prior section 421, Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 479; Pub. L. 88–132, §3(b), Oct. 2, 1963, 77 Stat. 212, provided for pay and allowances of contract surgeons, prior to repeal by Pub. L. 98–94, title IX, §932(e)(1), Sept. 24, 1983, 97 Stat. 650, eff. Oct. 1, 1983. See section 1091 of Title 10, Armed Forces.

## §422. Cadets and midshipmen

(a) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to the allowances provided by law for a midshipman in the Navy, and to travel and transportation allowances prescribed under section 410 of this title while traveling under orders as a cadet or midshipman.

(b) Each midshipman of the Navy to whom a Navy ration is not furnished is entitled to the commuted value of the ration in money for each day that he is on active duty, including each day that he is on leave. The Secretary of the Navy may prescribe regulations stating the conditions under which the commuted value shall be allowed and may prescribe regulations establishing the rates at which the ration shall be commuted.

(c) A cadet or midshipman appointed under section 2107 of title 10 is entitled to the same allowances as are provided for cadets and midshipmen at the United States Military, Naval, and Air Force Academies for—

(1) initial travel to the educational institution in which matriculated;

(2) travel while under orders; and

(3) travel on discharge.

However, no allowance for travel on discharge may be paid to a discharged cadet or midshipman who continues his scholastic instruction at the same educational institution.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 479; Pub. L. 88–647, title II, §202(4), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89–718, §63, Nov. 2, 1966, 80 Stat. 1123.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 422(a) ..... | 37:308 (less applicability to pay). | Oct. 12, 1949, ch. 681, § 508 (less applicability to pay), 63 Stat. 828. |
| 422(b) ..... | 10:6081(b) (9th through 17th words). | [None.] |
| | 10:6081(c) (16th through 19th words). | [None.] |
| 422(c) ..... | 10:6904(c). | [None.] |
| | 10:6905(c). | [None.] |
| 422(d) ..... | 10:6906(c) (1st sentence, less applicability to pay). | [None.] |

In subsection (a), the words ''prescribed under section 410 of this title'' are inserted to reflect that revised section.

AMENDMENTS

1966—Subsec. (c). Pub. L. 89–718 struck out '', United States Code,'' after ''title 10''.

1964—Subsec. (c). Pub. L. 88–647, § 202(4)(A), (B), among other changes, substituted provisions relating to a cadet or midshipman appointed under section 2107 of title 10, for provisions relating to a midshipman appointed under section 6904 of title 10, or a seaman recruit enlisted under section 6905 of title 10, and ''educational institution'' for ''college or university'', in text, and ''Cadets and midshipmen'' for ''Cadets, midshipmen, and naval officer candidates'', in section catchline.

Subsec. (d). Pub. L. 88–647, § 202(4)(C), struck out subsec. (d) which entitled a midshipman under section 6906 of title 10, while on flight training or duty, to the allowances of a midshipman at the United States Naval Academy.

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), 551(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.

## § 423. Validity of allowance payments based on purported marriages

A payment of an allowance, based on a purported marriage, that is made under this chapter, under the Career Compensation Act of 1949, or under the Pay Readjustment Act of 1942, before judicial annulment or termination of that marriage, is valid, if a court of competent jurisdiction adjudges or decrees that the marriage was entered into in good faith on the part of the spouse who is a member of a uniformed service or if, in the absence of such a judgment or decree, such a finding of good faith is made by the Secretary concerned or by a person designated by him to investigate the matter.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 479.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 423 ..... | 37:303. | Oct. 12, 1949, ch. 681, § 503, 63 Stat. 827. |

The words ''or which hereafter may be'' are omitted as surplusage. The words ''a person designated by him to investigate the matter'' are substituted for the words ''such person as he may designate for the purpose''.

REFERENCES IN TEXT

The Career Compensation Act of 1949, referred to in text, is act Oct. 12, 1949, ch. 681, 63 Stat. 802, which was classified principally to chapter 4 (§ 231 et seq.) of former Title 37, Pay and Allowances, prior to the revision and reenactment of Title 37 by Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 451. For distribution of sections of chapter 4 of former Title 37, see Table preceding section 101 of this title.

The Pay Readjustment Act of 1942, referred to in text, is act June 16, 1942, ch. 413, 56 Stat. 359, which was classified principally to chapter 2 (§ 101 et seq.) of former Title 37, Pay and Allowances, prior to the revision and reenactment of title 37 by Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 451. For distribution of sections of chapter 2 of former title 37, see Table preceding section 101 of this title.

## § 424. Band leaders

(a) The leader of the Army Band is entitled to the allowances of a captain in the Army.

(b) The leader of the United States Navy Band is entitled to the allowances of a lieutenant of the Navy.

(c) A member of the Marine Corps who is appointed as director or assistant director of the United States Marine Corps Band under section 6222 of title 10, is entitled, while serving thereunder, only to the allowances of an officer in the grade in which he is serving. However, his allowances may not be less than those to which he was entitled at the time of his appointment under that section.

(d) The leader of the Naval Academy Band is entitled to the allowances of the pay grade prescribed for him by the Secretary of Navy under section 207(e) of this title. The second leader is entitled to the allowances of a warrant officer, W–1.

(e) The director of the Coast Guard Band is entitled to the allowances of an officer in the grade in which he is serving. However, his allowances may not be less than those to which he was entitled at the time of his appointment as director.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 480; Pub. L. 89–189, § 3, Sept. 17, 1965, 79 Stat. 820; Pub. L. 95–551, § 3(b)(2), Oct. 30, 1978, 92 Stat. 2069.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 424(a) ..... | 10:3536(b) (less applicability to basic pay). | [None.] |
| 424(b) ..... | 10:4338(a) (as applicable to allowances). | [None.] |
| 424(c) ..... | 10:6221(b) (less applicability to basic pay). | [None.] |
| 424(d) ..... | 10:6222(e) (less applicability to basic pay). | [None.] |
| 424(e) ..... | 10:6969(b) (less last sentence, and less applicability to basic pay). | [None.] |

AMENDMENTS

1978—Subsecs. (b) to (f). Pub. L. 95–551 redesignated subsecs. (c) to (f) as (b) to (e), respectively. Former subsec. (b), which provided that the director of music at the United States Military Academy be entitled to allowances of a commissioned officer of the rank prescribed for the director by the Secretary of the Army, was struck out.

1965—Subsec. (f). Pub. L. 89–189 added subsec. (f).

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), 551(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.

### §425. United States Navy Band; United States Marine Corps Band: allowances while on concert tour

While on concert tours approved by the President, the members of the United States Navy Band and the United States Marine Corps Band do not forfeit allowances.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 480.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 425 ..... | 10:6224. | [None.] |

The words ''do not forfeit'' are substituted for the words ''lose no'' for clarity.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(14) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

### [§426. Repealed. Pub. L. 90–377, §10, July 5, 1968, 82 Stat. 288]

Section, Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 480, provided for payment to persons confined in a naval confinement facility under sentence of a court-martial of not more than $3 a month for necessary expenses, such payments to be made from appropriations for pay of Navy or Marine Corps.

### §427. Family separation allowance

(a) ENTITLEMENT TO ALLOWANCE.—(1) In addition to any allowance or per diem to which he otherwise may be entitled under this title a member of a uniformed service with dependents is entitled to a monthly allowance equal to $250 if—

(A) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station;

(B) he is on duty on board a ship away from the home port of the ship for a continuous period of more than 30 days; or

(C) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

(2) A member who becomes entitled to an allowance under this subsection by virtue of duty prescribed in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the earlier of—

(A) the first day of that period; or

(B) the first day the member ceased being entitled to a previous allowance under this subsection by reason of the end of duty prescribed in such subparagraphs, if the member ceased being entitled to the previous allowance within 30 days before the first day of that period.

(b) ENTITLEMENT WHEN NO RESIDENCE OR HOUSEHOLD MAINTAINED FOR DEPENDENTS.—An allowance is payable under subsection (a) even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management and control, which he is likely to share with them as a common household when his duty assignment permits.

(c) EFFECT OF ELECTION TO SERVE UNACCOMPANIED TOUR OF DUTY.—(1) Except as provided in paragraph (2) or (3), a member who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under subsection (a)(1)(A).

(2) The prohibition in the first sentence of paragraph (1) does not apply to a member who elects to serve an unaccompanied tour of duty because a dependent cannot accompany the member to or at that permanent station for certified medical reasons.

(3) The Secretary concerned may waive paragraph (1) in situations in which it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances.

(d) ENTITLEMENT WHILE SPOUSE ENTITLED TO BASIC PAY.—(1) A member married to another member of the uniformed services becomes entitled, regardless of any other dependency status, to an allowance under subsection (a) by virtue of duty prescribed in subparagraph (A), (B), or (C) of paragraph (1) of such subsection if the members were residing together immediately before being separated by reasons of execution of military orders.

(2) If a married couple, both of whom are members of the uniformed services, with dependents are simultaneously assigned to duties described in subparagraph (A), (B), or (C) of subsection (a)(1) and the members resided together with their dependents immediately before their assignments, the Secretary concerned shall pay each of the members the full amount of the monthly allowance specified in such subsection until one of the members is no longer assigned to duties described in such subparagraphs. Upon expiration of the additional allowance, paragraph (1) shall continue to apply to the remaining member so long as the member is assigned to duties described in subparagraph (A), (B), or (C) of such subsection.

(3) Section 421 of this title does not apply to bar the entitlement to an allowance under this section. Except as provided in paragraph (2), not more than one monthly allowance may be paid with respect to a married couple under this section.

(Added Pub. L. 88–132, § 11(1), Oct. 2, 1963, 77 Stat. 217; amended Pub. L. 91–529, § 1, Dec. 3, 1970, 84 Stat. 1389; Pub. L. 91–533, § 1, Dec. 7, 1970, 84 Stat. 1392; Pub. L. 96–342, title VIII, § 809(a), Sept. 8, 1980, 94 Stat. 1097; Pub. L. 99–145, title VI, § 607(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99–661, div. A, title VI, § 618(a), Nov. 14, 1986, 100 Stat. 3880; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title VI, §§ 611(b), 625, Dec. 5, 1991, 105 Stat. 1376, 1379; Pub. L. 103–337, div. A, title VI, § 625(a), Oct. 5, 1994, 108 Stat. 2785; Pub. L. 104–106, div. A, title VI, § 606, Feb. 10, 1996, 110 Stat. 358; Pub. L. 104–201, div. A, title VI, § 607, Sept. 23, 1996, 110 Stat. 2542; Pub. L. 105–85, div. A, title VI, §§ 603(c)(3), 626, Nov. 18, 1997, 111 Stat. 1781, 1795; Pub. L. 107–107, div. A, title VI, § 607(a), Dec. 28, 2001, 115 Stat. 1134; Pub. L. 108–11, title I, § 1316(b), (c)(2), Apr. 16, 2003, 117 Stat. 570; Pub. L. 108–136, div. A, title VI, §§ 606, 618(d)(2), Nov. 24, 2003, 117 Stat. 1500, 1504; Pub. L. 108–375, div. A, title VI, § 623(b), Oct. 28, 2004, 118 Stat. 1955; Pub. L. 110–417, [div. A], title VI, § 604(a), Oct. 14, 2008, 122 Stat. 4483.)

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–417 designated first sentence of existing provisions as par. (1), designated last two sentences of existing provisions as par. (3) and substituted ''Except as provided in paragraph (2)'' for ''However'', and added par. (2).

2004—Subsec. (a)(1). Pub. L. 108–375, § 623(b)(2)(A), substituted ''$250'' for ''$100''.

Subsec. (e). Pub. L. 108–375, § 623(b)(2)(B), struck out heading and text of subsec. (e). Text read as follows: ''For the period beginning on October 1, 2003, and ending on December 31, 2005, the monthly allowance authorized by subsection (a)(1) shall be increased to $250.''

Pub. L. 108–375, § 623(b)(1), substituted ''December 31, 2005'' for ''December 31, 2004''.

2003—Subsec. (a)(1). Pub. L. 108–11, § 1316(b), (c), as amended by Pub. L. 108–136, § 618(d)(2), temporarily substituted ''$250'' for ''$100''. See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (e). Pub. L. 108–136, § 606, added subsec. (e).

2001—Subsec. (c). Pub. L. 107–107 designated first sentence of existing provisions as par. (1) and substituted ''Except as provided in paragraph (2) or (3), a member'' for ''A member'', added par. (2), and designated second sentence of existing provisions as par. (3) and substituted ''The Secretary concerned may waive paragraph (1)'' for ''The Secretary concerned may waive the preceding sentence''.

1997—Subsec. (a). Pub. L. 105–85, § 603(c)(3)(B)(i), redesignated subsec. (b)(1), (2) as subsec. (a)(1), (2), respectively, and inserted subsec. heading.

Pub. L. 105–85, § 603(c)(3)(A), struck out heading and text of subsec. (a). Text read as follows: ''In addition to any allowance or per diem to which he otherwise may be entitled under this title, a member of a uniformed service with dependents who is on permanent duty outside of the United States, or in Alaska, is entitled to a monthly allowance equal to the basic allowance for quarters payable to a member without dependents in the same pay grade if—

''(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station; and

''(2) quarters of the United States or a housing facility under the jurisdiction of a uniformed service are not available for assignment to him.''

Subsec. (a)(1). Pub. L. 105–85, § 626, substituted ''$100'' for ''$75'' in introductory provisions.

Pub. L. 105–85, § 603(c)(3)(B)(ii), struck out '', including subsection (a),'' after ''under this title'' in introductory provisions, inserted ''or'' at end of subpar. (B), substituted ''station.'' for ''station; or'' at end of subpar. (C), and struck out subpar. (D) which read as follows: ''the member is married to a member of a uniformed service, the member has no dependent other than the spouse, the two members are separated by reason of the execution of military orders, and the two members were residing together immediately before being separated by reason of execution of military orders.''

Subsec. (b). Pub. L. 105–85, § 603(c)(3)(B)(iii), redesignated subsec. (b)(3) as subsec. (b), inserted heading, and substituted ''subsection (a)'' for ''this subsection''. Former subsec. (b)(1), (2), and (4) redesignated subsecs. (a)(1), (2), and (c), respectively.

Subsec. (b)(5). Pub. L. 105–85, § 603(c)(3)(B)(v), struck out par. (5) which read as follows: ''Section 421 of this title does not apply to bar an entitlement to an allowance under paragraph (1)(D). However, not more than one monthly allowance may be paid with respect to a married couple under paragraph (1)(D) for any month.''

Subsec. (c). Pub. L. 105–85, § 603(c)(3)(B)(iv), redesignated subsec. (b)(4) as subsec. (c), inserted heading, and substituted ''subsection (a)(1)(A)'' for ''paragraph (1)(A) of this subsection''.

Subsec. (d). Pub. L. 105–85, § 603(c)(3)(B)(v), added subsec. (d).

1996—Subsec. (b)(1)(D). Pub. L. 104–201, § 607(a), added subpar. (D).

Subsec. (b)(4). Pub. L. 104–106 inserted ''paragraph (1)(A) of'' after ''not entitled to an allowance under''.

Subsec. (b)(5). Pub. L. 104–201, § 607(b), added par. (5).

1994—Subsec. (b)(2). Pub. L. 103–337, § 625(a)(3), added par. (2). Former par. (2) redesignated (3).

Pub. L. 103–337, § 625(a)(1), struck out at beginning ''A member who becomes entitled to an allowance under this subsection by virtue of duty described in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the first day of that period.''

Subsec. (b)(3), (4). Pub. L. 103–337, § 625(a)(2), redesignated pars. (2) and (3) as (3) and (4), respectively.

1991—Subsec. (a). Pub. L. 102–190, § 625(b)(1), inserted heading.

Subsec. (b). Pub. L. 102–190, § 625(b)(2), inserted heading.

Subsec. (b)(1). Pub. L. 102–190, § 625(a), substituted ''$75'' for ''$60''.

Pub. L. 102–190, § 611(b), substituted ''In'' for ''Except in time of war or of national emergency hereafter declared by Congress, and in''.

Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

1986—Subsec. (b). Pub. L. 99–661, § 618(a), designated existing provisions as pars. (1) and (2), in par. (1) redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and in par. (2) substituted ''subparagraph (B) or (C) of paragraph (1)'' for ''clause (2) or (3)'', and added par. (3).

1985—Subsec. (b). Pub. L. 99–145 substituted ''$60'' for ''$30''.

1980—Subsec. (b). Pub. L. 96–342 struck out ''(other than a member in pay grade E–1, E–2, E–3, or E–4 (4 years' or less service))'' after ''a member of a uniformed service with dependents''.

1970—Subsec. (b). Pub. L. 91–533 struck out ''who is entitled to a basic allowance for quarters'' after ''(4 years' or less service)''.

Pub. L. 91–529 inserted provisions authorizing payment of an allowance under this subsection even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management or control, which he is likely to share with them as a common household when his duty assignment permits.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–417, [div. A], title VI, §604(b), Oct. 14, 2008, 122 Stat. 4483, provided that: ''Paragraph (2) of subsection (d) of section 427 of title 37, United States Code, as added by subsection (a), shall apply with respect to members of the uniformed services described in such paragraph who perform service covered by subparagraph (A), (B), or (C) of subsection (a)(1) such [sic] section on or after October 1, 2008.''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title VI, §623(b)(2), Oct. 28, 2004, 118 Stat. 1955, provided that the amendments made by section 623(b)(2) are effective Jan. 1, 2006.

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENTS

Pub. L. 108–136, div. A, title VI, §618(d)(2), Nov. 24, 2003, 117 Stat. 1504, provided that the amendment made by section 618(d)(2) is effective Apr. 16, 2003.

Amendment by Pub. L. 108–11 effective Oct. 1, 2002, and applicable with respect to months beginning on or after that date, and expires Sept. 30, 2003, and, effective Sept. 30, 2003, the dollar amount specified in subsec. (a)(1) of this section as in effect on the day before Apr. 16, 2003, is revived, see section 1316(c), (d) of Pub. L. 108–11, as amended, set out as notes under section 310 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VI, §607(b), Dec. 28, 2001, 115 Stat. 1135, provided that: ''Paragraph (2) of section 427(c) of title 37, United States Code, as added by subsection (a)(3), shall apply with respect to pay periods beginning on or after January 1, 2002, for a member of the uniformed services covered by such paragraph regardless of the date on which the member first made the election to serve an unaccompanied tour of duty.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 603(c)(3) of Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 625(b) of Pub. L. 103–337 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect as of June 20, 1994.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 607(b) of Pub. L. 99–145 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1985, and shall apply only to family separation allowances payable for months beginning on or after that date.''

EFFECTIVE DATE OF 1980 AMENDMENT

Section 809(b) of Pub. L. 96–342 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect with respect to months after September 1980.''

EFFECTIVE DATE OF 1970 AMENDMENTS

Section 2 of Pub. L. 91–533 provided that: ''The amendment made by this Act [amending this section] shall take effect on the first day of the first calendar month which occurs after the date of the enactment of this Act [Dec. 7, 1970].''

Section 2 of Pub. L. 91–529 provided that: ''Section 1 of this Act [amending this section] is effective October 1, 1963.''

EFFECTIVE DATE

Section effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

SAVINGS PROVISION

Section 618(b) of Pub. L. 99–661 provided that: ''Notwithstanding the amendments made by subsection (a) [amending this section], a member who on September 30, 1986, was assigned to a permanent station to which the movement of his dependents was authorized at the expense of the United States under section 406 of title 37, United States Code, and who elected to serve a tour of duty at that station unaccompanied by his dependents, shall, until he departs that station as a result of a change of permanent station, be entitled to receive the allowance authorized by section 427(b) of such title without regard to paragraph (3) [now (4)] of such section, as added by subsection (a).''

RATES OF PAY FOR FISCAL YEAR 2004

Rates of pay authorized under subsec. (a)(1) of this section from Oct. 1, 2003, through Sept. 30, 2004, to be $250, see section 1104 of Pub. L. 108–106, set out as a note under section 310 of this title.

TEMPORARY INCREASE IN FAMILY SEPARATION ALLOWANCE; PERSIAN GULF CONFLICT

Section 302 of Pub. L. 102–25 provided that:

''(a) INCREASED RATE.—In lieu of the family separation allowance specified in section 427(b)(1) of title 37, United States Code, the family separation allowance payable under that section shall be $75 for each month during the period described in subsection (b).

''(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on January 15, 1991, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.''

FAMILY SEPARATION ALLOWANCE FOR MEMBERS IN MISSING STATUS DURING THE VIETNAM CONFLICT

Pub. L. 91–534, Dec. 7, 1970, 84 Stat. 1392, provided: ''That, under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service with dependents who is in a missing status (as defined in section 551(2) of title 37 United States Code) during the Vietnam conflict and is not entitled to an allowance under section 427(b) of title 37 may be paid a monthly allowance equal to $30. For the purposes of this Act, the Vietnam conflict ends on the date designated by the President by Executive order as the date of the termination of combat activities in Vietnam.

''SEC. 2. This Act takes effect on the first day of the first month which begins after the date of enactment of this Act [Dec. 7, 1970].''

## §428. Allowance for recruiting expenses

In addition to other pay or allowances authorized by law, and under uniform regulations prescribed by the Secretaries concerned, a member who is assigned to recruiting duties for his armed force may be reimbursed for actual and necessary expenses incurred in connection with those duties.

(Added Pub. L. 92–129, title II, §205(a), Sept. 28, 1971, 85 Stat. 359.)

EFFECTIVE DATE

Section effective Oct. 1, 1971, see section 209 of Pub. L. 92–129, set out as a note under section 302a of this title.

PAY CONTINUATION

Enactment of this section not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92–129, set out as a note under section 203 of this title.

### § 429. Travel and transportation allowances: minor dependent schooling

Under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service whose permanent station is outside the United States may be allowed transportation in kind for any minor dependent (or reimbursement therefor), or a monetary allowance in place of such transportation in kind, to a school operated by the Department of Defense under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.) for dependents in an overseas area which is operated, and which such dependent attends, on a 5-day-a-week dormitory basis or on a 7-day-a-week dormitory basis. In the case of a dependent attending a school on a 5-day-a-week dormitory basis, the transportation in kind or allowance authorized by this section shall be for weekly trips to and from such school, and in the case of a dependent attending a school on a 7-day-a-week dormitory basis, such transportation in kind or allowances shall be for not less than three trips to and from such school during the school year.

(Added Pub. L. 95–561, title XIV, § 1407(e)(1)(A), formerly § 1407(c)(1)(A), Nov. 1, 1978, 92 Stat. 2367, renumbered § 1407(d)(1)(A), Pub. L. 101–510, div. A, title V, § 504(a)(1), Nov. 5, 1990, 104 Stat. 1559; renumbered § 1407(e)(1)(A), Pub. L. 107–107, div. A, title III, § 353(1), Dec. 28, 2001, 115 Stat. 1063; amended Pub. L. 99–145, title XIII, § 1303(b)(10), Nov. 8, 1985, 99 Stat. 741.)

REFERENCES IN TEXT

The Defense Dependents' Education Act of 1978, referred to in text, is Pub. L. 95–561, title XIV, Nov. 1, 1978, 92 Stat. 2365, as amended, which is classified principally to chapter 25A (§ 921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

AMENDMENTS

1985—Pub. L. 99–145 inserted ''(20 U.S.C. 921 et seq.)''.

EFFECTIVE DATE

Section effective Oct. 1, 1978, and no provision to be construed in impair or to prevent the taking of effect of any other Act providing for the transfer of the described functions to an executive department having responsibility for education, see section 1415 of Pub. L. 95–561, set out as a note under section 921 of Title 20, Education.

TRANSFER OF FUNCTIONS

All functions of the Secretary of Defense and the Department of Defense under this section, with the exception of functions relating to operation of overseas institutions of higher education, were transferred to the Secretary of Education by section 3442(a) and (d) of Title 20, Education.

DEPENDENT STUDENT TRAVEL WITHIN UNITED STATES

For availability of Department of Defense funds for travel and transportation of dependent students of members of the Armed Forces stationed overseas for transportation allowances for travel within or between the contiguous States, see section 808 of Pub. L. 99–145, set out as a note under section 133 of Title 10, Armed Forces.

AUTHORITY UNDER THE DEFENSE DEPARTMENT OVERSEAS TEACHERS PAY AND PERSONNEL PRACTICES ACT AVAILABLE TO SECRETARY OF EDUCATION

The authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act, section 901 et seq. of Title 20, Education, made available to the Secretary of Education with respect to all functions transferred from the Secretary of Defense and Department of Defense under this section by section 3442(b) of Title 20, Education.

### § 430. Travel and transportation: dependent children of members stationed overseas

(a) AVAILABILITY OF ALLOWANCE.—(1) Under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid the allowance set forth in subsection (b) if the member—

(A) is assigned to a permanent duty station outside the continental United States;

(B) is accompanied by the member's dependents at or near that duty station (unless the member's only dependents are in the category of dependent described in paragraph (2)); and

(C) has an eligible dependent child described in paragraph (2).

(2) An eligible dependent child of a member referred to in paragraph (1)(C) is a child who—

(A) is under 23 years of age and unmarried;

(B) is enrolled in a school in the continental United States for the purpose of obtaining a formal education; and

(C) is attending that school or is participating in a foreign study program approved by that school and, pursuant to that foreign study program, is attending a school outside the United States for a period of not more than one year.

(b) ALLOWANCE AUTHORIZED.—(1) A member described in subsection (a) may be paid a transportation allowance for each eligible dependent child of the member of one annual trip between the school being attended by that child and the member's duty station outside the continental United States and return. The allowance authorized by this section may be transportation in kind or reimbursement therefor, as prescribed by the Secretaries concerned. However, the transportation authorized by this section may not be paid a member for a child attending a school in the continental United States for the purpose of obtaining a secondary education if the child is eligible to attend a secondary school for dependents that is located at or in the vicinity of the duty station of the member and is operated under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

(2) The allowance authorized under paragraph (1) for the travel of an eligible dependent may include reimbursement for costs incurred by or on behalf of the dependent for lodging of the dependent that is necessitated by an interruption in the travel caused by extraordinary circumstances prescribed in the regulations under subsection (a). The amount of the reimbursement shall be determined using the rate applicable to such circumstances.

(3) At the option of the member, in lieu of the transportation of baggage of a dependent child under paragraph (1) from the dependent's school in the continental United States, the Secretary concerned may pay or reimburse the member for costs incurred to store the baggage at or in the vicinity of the school during the dependent's annual trip between the school and the member's duty station or during a different period in the same fiscal year selected by the member. The amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage.

(4) The transportation allowance paid under paragraph (1) for an annual trip of an eligible dependent child who is attending a school outside the United States may not exceed the transportation allowance that would be paid under this section for the annual trip of that child between the child's school in the continental United States and the member's duty station outside the continental United States and return.

(c) USE OF AIRLIFT AND SEALIFT COMMAND.—Whenever possible, the Air Mobility Command or Military Sealift Command shall be used, on a space-required basis, for the travel authorized by this section.

(d) ATTENDANCE AT SCHOOL IN ALASKA OR HAWAII.—For a member assigned to duty outside the continental United States, transportation under this section may be provided a dependent child as described in subsection (a)(2) who is attending a school in Alaska or Hawaii.

(e) EXCEPTION.—The transportation allowance authorized by this section (whether transportation in kind or reimbursement) may not be paid in the case of a member assigned to a permanent duty station in Alaska or Hawaii for a child attending a school in the State of the permanent duty station.

(f) DEFINITIONS.—In this section:

(1) The term ''formal education'' means the following:

(A) A secondary education.

(B) An undergraduate college education.

(C) A graduate education pursued on a full-time basis at an institution of higher education.

(D) Vocational education pursued on a full-time basis at a postsecondary vocational institution.

(2) The term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(3) The term ''postsecondary vocational institution'' has the meaning given that term in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c)).

(Added Pub. L. 98–94, title IX, §910(a)(1), Sept. 24, 1983, 97 Stat. 638; amended Pub. L. 101–189, div. A, title VI, §625(a), Nov. 29, 1989, 103 Stat. 1448; Pub. L. 101–510, div. A, title XIV, §1484(e)(1), Nov. 5, 1990, 104 Stat. 1717; Pub. L. 102–25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 105–261, div. A, title VI, §634, Oct. 17, 1998, 112 Stat. 2044; Pub. L. 106–398, §1 [[div. A], title VI, §646], Oct. 30, 2000, 114 Stat. 1654, 1654A–162; Pub. L. 107–107, div. A, title VI, §639(a)–(c), title IX, §931(c), Dec. 28, 2001, 115 Stat. 1148, 1200; Pub. L. 107–314, div. A, title VI, §654(b)(6), Dec. 2, 2002, 116 Stat. 2582; Pub. L. 108–136, div. A, title VI, §633, Nov. 24, 2003, 117 Stat. 1509; Pub. L. 108–375, div. A, title VI, §633, Oct. 28, 2004, 118 Stat. 1957.)

REFERENCES IN TEXT

The Defense Dependents' Education Act of 1978, referred to in subsec. (b)(1), is title XIV of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2365, as amended, which is classified principally to chapter 25A (§921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

AMENDMENTS

2004—Subsec. (b)(2) to (4). Pub. L. 108–375 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

2003—Subsec. (b)(2). Pub. L. 108–136 inserted before period at end of first sentence ''or during a different period in the same fiscal year selected by the member''.

2002—Subsec. (f). Pub. L. 107–314 added subsec. (f) and struck out heading and text of former subsec. (f). Text defined the terms ''continental United States'' and ''formal education''.

2001—Subsec. (a). Pub. L. 107–107, §639(a), inserted heading and amended text generally. Prior to amendment, text read as follows:

''(a) Under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service who—

''(1) is assigned a permanent duty station outside the continental United States,

''(2) is accompanied by his dependents at or near his duty station (unless his only dependents are in the category of dependent described in clause (3)), and

''(3) has a dependent child who is under 23 years of age attending a school in the continental United States for the purpose of obtaining a formal education,

may be paid the allowance set forth in subsection (b) if he otherwise qualifies for such allowance.''

Subsec. (b). Pub. L. 107–107, §639(b)(1), inserted heading.

Subsec. (b)(1). Pub. L. 107–107, §639(b)(2), in first sentence, substituted ''each eligible dependent child of the member of one annual trip between the school being attended by that child'' for ''each unmarried dependent child, who is under 23 years of age and is attending a school in the continental United States for the purpose of obtaining a formal education, of one annual trip between the school being attended''.

Subsec. (b)(3). Pub. L. 107–107, §639(b)(3), added par. (3).

Subsec. (c). Pub. L. 107–107, §931(c), substituted ''Air Mobility Command'' for ''Military Airlift Command''.

Pub. L. 107–107, §639(c)(1), inserted heading.

Subsec. (d). Pub. L. 107–107, §639(c)(2), inserted heading and substituted ''subsection (a)(2)'' for ''subsection (a)(3)''.

Subsec. (e). Pub. L. 107–107, §639(c)(3), inserted heading.

Subsec. (f). Pub. L. 107–107, §639(c)(4), inserted heading.

2000—Subsecs. (a)(3), (b)(1). Pub. L. 106–398, §1 [[div. A], title VI, §646(1)], substituted ''for the purpose of obtaining a formal education'' for ''for the purpose of obtaining a secondary or undergraduate college education''.

Subsec. (f). Pub. L. 106–398, §1 [[div. A], title VI, §646(2)], substituted ''In this section:'' for ''In this section,'', inserted par. (1) designation, substituted ''The term'' for ''the term'', and added par. (2).

1998—Subsec. (b). Pub. L. 105–261 designated existing provisions as par. (1) and added par. (2).

1991—Subsec. (a). Pub. L. 102–25 struck out ''of this subsection'' after ''clause (3)'' in par. (2) and ''of this section'' after ''subsection (b)'' in concluding provisions.

Subsec. (b). Pub. L. 102–25, § 702(b)(1), struck out ''of this section'' after ''subsection (a)''.

1990—Subsec. (b). Pub. L. 101–510 inserted ''(20 U.S.C. 921 et seq.)'' after ''Education Act of 1978''.

1989—Subsec. (a). Pub. L. 101–189, § 625(a)(1), inserted ''continental'' before ''United States'' in pars. (1) and (3) and struck out ''oversea'' before ''duty station'' in par. (2).

Subsec. (b). Pub. L. 101–189, § 625(a)(2), inserted ''continental'' before ''United States'' in two places and substituted ''outside the continental United States'' for ''in the oversea area''.

Subsecs. (d) to (f). Pub. L. 101–189, § 625(a)(3), added subsecs. (d) to (f).

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VI, § 639(d), Dec. 28, 2001, 115 Stat. 1149, provided that: ''The amendments made by this section [amending this section] shall apply with respect to travel described in subsection (b) of section 430 of title 37, United States Code, as amended by this section, that commences on or after the date of the enactment of this Act [Dec. 28, 2001].''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 625(b) of Pub. L. 101–189 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to travel and transportation commenced after the date of the enactment of this Act [Nov. 29, 1989].''

EFFECTIVE DATE

Section 910(b) of Pub. L. 98–94 provided that: ''Section 430 of title 37, United States Code, as added by subsection (a), shall apply only with respect to travel begun after September 30, 1983.''

DEPENDENT STUDENT TRAVEL WITHIN UNITED STATES

For availability of Department of Defense funds for travel and transportation of dependent students of members of the Armed Forces stationed overseas for transportation allowances for travel within or between the contiguous States, see section 808 of Pub. L. 99–145, set out as a note under section 133 of Title 10, Armed Forces.

Pub. L. 98–212, title VII, § 799B, Dec. 8, 1983, 97 Stat. 1456, as amended by Pub. L. 98–396, title I, Aug. 22, 1984, 98 Stat. 1378, provided in part that: ''After August 31, 1984, none of the funds appropriated to the Department of Defense for the travel and transportation of dependent students of military personnel stationed overseas shall be obligated for a transportation allowance for travel within or between the contiguous United States.''

## § 431. Benefits for certain members assigned to the Defense Intelligence Agency

(a) The Secretary of Defense may provide to members of the armed forces described in subsection (e) allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (2), (3), (4), (6), (7), (8), and (13) of section 901 and sections 705 and 903 of the Foreign Service Act of 1980 (22 U.S.C. 4081(2), (3), (4), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5.

(b) The authority of the Secretary of Defense to make payments under subsection (a) is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

(c) Members of the armed forces may not receive benefits under both subsection (a) and any other provision of this title for the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.

(d) Regulations prescribed under subsection (a) may not take effect until the Secretary of Defense has submitted such regulations to—

(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(e) Subsection (a) applies to members of the armed forces who—

(1) are assigned—

(A) to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States; or

(B) to the Defense Intelligence Agency and engaged in intelligence-related duties outside the United States; and

(2) are designated by the Secretary of Defense for the purposes of subsection (a).

(Added Pub. L. 99–145, title XIII, § 1302(b)(1), Nov. 8, 1985, 99 Stat. 738; amended Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–93, title V, § 502(b), Jan. 6, 1996, 109 Stat. 973; Pub. L. 106–65, div. A, title X, § 1067(2), Oct. 5, 1999, 113 Stat. 774.)

CODIFICATION

Another section 431 was renumbered section 432 of this title.

AMENDMENTS

1999—Subsec. (d)(2). Pub. L. 106–65 substituted ''Committee on Armed Services'' for ''Committee on National Security''.

1996—Subsec. (a). Pub. L. 104–93, § 502(b)(1), substituted ''described in subsection (e)'' for ''who are assigned to Defense Attache Offices and Defense Intelligence Agency Liaison Offices outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection''.

Subsecs. (d), (e). Pub. L. 104–93, § 502(b)(2), (3), added subsecs. (d) and (e) and struck out former subsec. (d) which read as follows: ''Regulations prescribed pursuant to subsection (a) shall be submitted to the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate before such regulations take effect.''

1991—Subsecs. (b) to (d). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

DELEGATION OF AUTHORITY OF SECRETARY OF DEFENSE

Section 1302(b)(3) of Pub. L. 99–145, as amended by Pub. L. 100–180, div. A, title XIII, § 1314(d)(4), Dec. 4, 1987, 101 Stat. 1176, provided that: ''The authority of the Secretary of Defense under section 431 of title 37, United States Code, as added by paragraph (1), may be delegated in accordance with section 113(d) of title 10, United States Code.''

[Amendment to section 1302(b)(3) of Pub. L. 99–145 by Pub. L. 100–180 effective Oct. 1, 1986, see section 1314(e)(2) of Pub. L. 100–180, set out as a note under section 413 of this title.]

### §432. Travel and transportation: members escorting certain dependents

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service may be provided round trip transportation and travel allowances for travel performed or to be performed under competent orders as an escort for the member's dependent when travel by the dependent is authorized by competent authority and the dependent is incapable of traveling alone because of age, mental or physical incapacity, or other extraordinary circumstances.

(b) Whenever possible, the Air Mobility Command or Military Sealift Command shall be used, on a space-required basis, for the travel authorized by this section.

(Added Pub. L. 99–661, div. A, title VI, §615(a)(1), Nov. 14, 1986, 100 Stat. 3879, §431; renumbered §432, Pub. L. 100–26, §8(b)(1), Apr. 21, 1987, 101 Stat. 285; amended Pub. L. 107–107, div. A, title IX, §931(c), Dec. 28, 2001, 115 Stat. 1200.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 192 of Title 10, Armed Forces, prior to enactment of this section by Pub. L. 99–145.

AMENDMENTS

2001—Subsec. (b). Pub. L. 107–107 substituted ''Air Mobility Command'' for ''Military Airlift Command''.

EFFECTIVE DATE

Section 615(b) of Pub. L. 99–661 provided that: ''Section 431 [now 432] of title 37, United States Code, as added by subsection (a), shall apply with respect to travel performed after September 30, 1986.''

### §433. Allowance for muster duty

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the Ready Reserve who is not a member of the National Guard or of the Selected Reserve is entitled to an allowance for muster duty performed pursuant to section 12319 of title 10 if the member is engaged in that duty for at least two hours.

(b) The amount of the allowance under this section shall be 125 percent of the amount of the average per diem rate for the United States (other than Alaska and Hawaii) under section 404(d)(2)(A) of this title as in effect on September 30 of the year preceding the year in which the muster duty is performed.

(c) The allowance authorized by this section may not be disbursed in kind. The allowance may be paid to the member before, on, or after the date on which the muster duty is performed, but not later than 30 days after that date. The allowance shall constitute the single, flat-rate monetary allowance authorized for the performance of muster duty and shall constitute payment in full to the member, regardless of grade or rank in which serving, as commutation for travel to the immediate vicinity of the designated muster duty location, transportation, subsistence, and the special or extraordinary costs of enforced absence from home and civilian pursuits, including such absence on weekends and holidays.

(d) A member who performs muster duty is not entitled to compensation for inactive-duty training under section 206(a) of this title for the same period.

(Added Pub. L. 101–189, div. A, title V, §502(b)(1), Nov. 29, 1989, 103 Stat. 1436; amended Pub. L. 101–510, div. A, title XIV, §1484(h)(5), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 104–106, div. A, title XV, §1501(d)(4)(B), Feb. 10, 1996, 110 Stat. 501; Pub. L. 105–85, div. A, title VI, §627, Nov. 18, 1997, 111 Stat. 1795.)

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–85 struck out ''and shall be paid to the member on or before the date on which the muster duty is performed'' after ''disbursed in kind'' in first sentence and inserted ''The allowance may be paid to the member before, on, or after the date on which the muster duty is performed, but not later than 30 days after that date.'' after first sentence.

1996—Subsec. (a). Pub. L. 104–106 substituted ''section 12319 of title 10'' for ''section 687 of title 10''.

1990—Subsec. (a). Pub. L. 101–510 substituted ''section 687 of title 10'' for ''section 691 of title 10''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1484(h)(5) of Pub. L. 101–510 provided that the amendment made by that section is effective as of Nov. 29, 1989.

### §433a. Allowance for participation in Ready Reserve screening

(a) ALLOWANCE AUTHORIZED.—(1) Under regulations prescribed by the Secretaries concerned, a member of the Individual Ready Reserve may be paid a stipend for participation in the screening performed pursuant to section 10149 of title 10, in lieu of muster duty performed under section 12319 of title 10, if such participation is conducted through electronic means.

(2) The stipend paid a member under this section shall constitute the sole monetary allowance authorized for participation in the screening described in paragraph (1), and shall constitute payment in full to the member for participation in such screening, regardless of the grade or rank in which the member is serving.

(b) MAXIMUM PAYMENT.—The aggregate amount of the stipend paid a member of the Individual Ready Reserve under this section in any calendar year may not exceed $50.

(c) PAYMENT REQUIREMENTS.—(1) The stipend authorized by this section may not be disbursed in kind.

(2) Payment of a stipend to a member of the Individual Ready Reserve under this section for participation in screening shall be made on or after the date of participation in such screening, but not later than 30 days after such date.

(Added Pub. L. 110–181, div. A, title VI, §633(a)(1), Jan. 28, 2008, 122 Stat. 154.)

### §434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams

(a) REIMBURSEMENT OF REASONABLE SUBSISTENCE COSTS.—Under uniform regulations pre-

scribed by the Secretaries concerned, a member of the armed forces may be reimbursed for the reasonable cost of subsistence incurred by the member while performing duties as an escort of an arms control inspection team of a foreign country, or any member of such a team, while the team or the team member, as the case may be, is engaged in activities related to the implementation of an arms control treaty or agreement.

(b) PERIOD OF AUTHORITY.—The authority under subsection (a) applies to the period during which the inspection team, pursuant to authority specifically provided in the applicable arms control treaty or agreement, is in the country where inspections and related activities are being conducted by the team pursuant to that treaty or agreement.

(c) EFFECT OF LOCATION OF MEMBER'S PERMANENT DUTY STATION.—The authority under subsection (a) applies to a member of the armed forces whether the duties referred to in that subsection are performed at, near, or away from the member's permanent duty station.

(Added Pub. L. 102–484, div. A, title VI, § 623(a)(1), Oct. 23, 1992, 106 Stat. 2422.)

EFFECTIVE DATE

Section 623(b) of Pub. L. 102–484 provided that: ''Section 434 of title 37, United States Code, as added by subsection (a), shall apply with respect to escort duty described in that section which is performed on or after the date of the enactment of this Act [Oct. 23, 1992].''

## § 435. Funeral honors duty: allowance

(a) ALLOWANCE AUTHORIZED.—(1) The Secretary concerned may authorize payment of an allowance to a member of the Ready Reserve for any day on which the member performs at least two hours of funeral honors duty pursuant to section 12503 of title 10 or section 115 of title 32.

(2) The Secretary concerned may also authorize payment of that allowance to a member of the armed forces in a retired status for any day on which the member serves in a funeral honors detail under section 1491 of title 10, if the time required for service in such detail (including time for preparation) is not less than two hours. The amount of an allowance paid to a member under this paragraph shall be in addition to any other compensation to which the member may be entitled under this title or title 10 or 38.

(b) AMOUNT.—The daily rate of an allowance under this section is $50.

(Added Pub. L. 106–65, div. A, title V, § 578(j), Oct. 5, 1999, 113 Stat. 630; amended Pub. L. 106–398, § 1 [[div. A], title V, § 575(b), title X, § 1087(c)(1)(A)(i)], Oct. 30, 2000, 114 Stat. 1654, 1654A–138, 1654A–292; Pub. L. 107–107, div. A, title V, § 561(b), Dec. 28, 2001, 115 Stat. 1119.)

CODIFICATION

Another section 435 was renumbered section 436 of this title.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–107 designated existing provisions as par. (1) and added par. (2).

2000—Pub. L. 106–398, § 1 [[div. A], title X, § 1087(c)(1)(A)(i)], made technical amendment to directory language of Pub. L. 106–65, § 578(j), which enacted this section.

Subsec. (c). Pub. L. 106–398, § 1 [[div. A], title V, § 575(b)], struck out heading and text of subsec. (c). Text read as follows: ''Except for expenses reimbursed under subsection (c) of section 12503 of title 10 or subsection (c) of section 115 of title 32, the allowance paid under this section is the only monetary compensation authorized to be paid a member for the performance of funeral honors duty pursuant to such section, regardless of the grade in which the member is serving, and shall constitute payment in full to the member.''

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 1 [[div. A], title V, § 575(b)] of Pub. L. 106–398, applicable with respect to funeral honors duty performed on or after Oct. 1, 2000, see section 1 [[div. A], title V, § 575(c)] of Pub. L. 106–398, set out as a note under section 12503 of Title 10, Armed Forces.

Pub. L. 106–398, § 1 [[div. A], title X, § 1087(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292, provided that the amendment made by that section is effective as of Oct. 5, 1999, and as if included in the National Defense Authorization Act for Fiscal Year 2000, Pub. L. 106–65, as enacted.

## § 436. High-deployment allowance: lengthy or numerous deployments; frequent mobilizations

(a) MONTHLY ALLOWANCE.—The Secretary of the military department concerned shall pay a high-deployment allowance to a member of the armed forces under the Secretary's jurisdiction for each month during which the member—

(1) is deployed; and

(2) at any time during that month—

(A) has been deployed for 191 or more consecutive days (or a lower number of consecutive days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness);

(B) has been deployed, out of the preceding 730 days, for a total of 401 or more days (or a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness); or

(C) in the case of a member of a reserve component, is on active duty—

(i) under a call or order to active duty for a period of more than 30 days that is the second (or later) such call or order to active duty (whether voluntary or involuntary) for that member in support of the same contingency operation; or

(ii) for a period of more than 30 days under a provision of law referred to in section 101(a)(13)(B) of title 10, if such period begins within one year after the date on which the member was released from previous service on active duty for a period of more than 30 days under a call or order issued under such a provision of law.

(b) DEFINITION OF DEPLOYED.—In this section, the term ''deployed'', with respect to a member, means that the member is deployed or in a deployment within the meaning of section 991(b) of title 10 (including any definition of ''deployment'' prescribed under paragraph (4) of that section).

(c) RATE.—The monthly rate of the allowance payable to a member under this section shall be determined by the Secretary concerned, not to exceed $1,000 per month.

(d) PAYMENT OF CLAIMS.—A claim of a member for payment of the high-deployment allowance that is not fully substantiated by the record-keeping system applicable to the member under section 991(c) of title 10 shall be paid if the member furnishes the Secretary concerned with other evidence determined by the Secretary as being sufficient to substantiate the claim.

(e) RELATIONSHIP TO OTHER ALLOWANCES.—A high-deployment allowance payable to a member under this section is in addition to any other pay or allowance payable to the member under any other provision of law.

(f) NATIONAL SECURITY WAIVER.—No allowance may be paid under this section to a member for any month during which the applicability of section 991 of title 10 to the member is suspended under subsection (d) of that section.

(g) AUTHORITY TO EXCLUDE CERTAIN DUTY ASSIGNMENTS.—The Secretary concerned may exclude members serving in specified duty assignments from eligibility for the high-deployment allowance while serving in those assignments. Any such specification of duty assignments may only be made with the approval of the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness. Specification of a particular duty assignment for purposes of this subsection may not be implemented so as to apply to the member serving in that position at the time of such specification.

(h) PAYMENT FROM OPERATION AND MAINTENANCE FUNDS.—The monthly allowance payable to a member under this section shall be paid from appropriations available for operation and maintenance for the armed force in which the member serves.

(Added Pub. L. 106–65, div. A, title V, §586(b), Oct. 5, 1999, 113 Stat. 638, §435; renumbered §436 and amended Pub. L. 106–398, §1 [[div. A], title V, §574(c), title X, §1087(b)(4)], Oct. 30, 2000, 114 Stat. 1654, 1654A–137, 1654A–292; Pub. L. 107–107, div. A, title V, §592(a), Dec. 28, 2001, 115 Stat. 1125; Pub. L. 108–136, div. A, title V, §541(b)(1)–(5)(A), Nov. 24, 2003, 117 Stat. 1476, 1477.)

AMENDMENTS

2003—Pub. L. 108–136, §541(b)(5)(A), substituted ''High-deployment allowance: lengthy or numerous deployments; frequent mobilizations'' for ''Per diem allowance for lengthy or numerous deployments'' in section catchline.

Subsec. (a). Pub. L. 108–136, §541(b)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''The Secretary of the military department concerned shall pay a high-deployment per diem allowance to a member of the armed forces under the Secretary's jurisdiction for each day on which the member (1) is deployed, and (2) has, as of that day, been deployed 401 or more days out of the preceding 730 days. The Secretary shall pay the allowance from appropriations available for operation and maintenance for the armed force in which the member serves.''

Subsec. (c). Pub. L. 108–136, §541(b)(2), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: ''The amount of the high-deployment per diem payable to a member under this section is $100.''

Subsec. (d). Pub. L. 108–136, §541(b)(4)(A), struck out ''per diem'' before ''allowance''.

Subsec. (e). Pub. L. 108–136, §541(b)(4)(B), substituted ''allowance'' for ''per diem'' after ''high-deployment''.

Subsec. (f). Pub. L. 108–136, §541(b)(4)(C), substituted ''allowance'' for ''per diem'' and ''month during which'' for ''day on which''.

Subsecs. (g), (h). Pub. L. 108–136, §541(b)(3), added subsecs. (g) and (h).

2001—Subsec. (a). Pub. L. 107–107 inserted at end ''The Secretary shall pay the allowance from appropriations available for operation and maintenance for the armed force in which the member serves.''

2000—Pub. L. 106–398, §1 [[div. A], title X, §1087(b)(4)], renumbered section 435 of this title as this section.

Subsec. (a). Pub. L. 106–398, §1 [[div. A], title V, §574(c)(1)], substituted ''401 or more days out of the preceding 730 days'' for ''251 days or more out of the preceding 365 days''.

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title V, §574(c)(2)], substituted ''prescribed under paragraph (4)'' for ''prescribed under paragraph (3)''.

EFFECTIVE DATE

Pub. L. 106–65, div. A, title V, §586(d)(2), Oct. 5, 1999, 113 Stat. 639, provided that: ''Section 435 [now 436] of title 37, United States Code (as added by subsection (b)) [this section], shall take effect on October 1, 2001.''

## §437. Allowance to cover monthly premium for Servicemembers' Group Life Insurance: members serving in Operation Enduring Freedom or Operation Iraqi Freedom

(a) REQUIRED REIMBURSEMENT FOR PREMIUM DEDUCTION.—In the case of a member of the armed forces who has insurance coverage for the member under the Servicemembers' Group Life Insurance program under subchapter III of chapter 19 of title 38 and who serves in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom at any time during a month, the Secretary concerned shall pay the member an allowance under this section for that month in an amount equal to the amount of the deduction made under subsection (a)(1) of section 1969 of such title for the amount of Servicemembers' Group Life Insurance coverage held by the member under section 1967 of such title.

(b) NOTICE OF AVAILABILITY OF ALLOWANCE.—To the maximum extent practicable, in advance of the deployment of a member to a theater of operations referred to in subsection (a), the Secretary concerned shall give the member information regarding the following:

(1) The availability of the allowance under this section for members insured under the Servicemembers' Group Life Insurance program.

(2) The ability of members who elected not to be insured under Servicemembers' Group Life Insurance, or elected less than the maximum coverage amount available for such insurance, to obtain insurance, or to obtain additional coverage, as the case may be, under the authority provided in section 1967(c) of title 38.

(Added Pub. L. 109–163, div. A, title VI, §613(a), Jan. 6, 2006, 119 Stat. 3291; amended Pub. L. 109–364, div. A, title VI, §606(a)–(c), Oct. 17, 2006, 120 Stat. 2246; Pub. L. 110–181, div. A, title X, §1063(c)(5), Jan. 28, 2008, 122 Stat. 322.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181 made technical correction to directory language of Pub. L. 109–364, §606(b)(1)(A). See 2006 Amendment note below.

2006—Pub. L. 109–364, § 606(c), struck out ''portion of'' before ''monthly premium'' in section catchline.

Subsec. (a). Pub. L. 109–364, § 606(b)(1)(B), struck out par. (2) which read as follows: ''If a member described in paragraph (1) elected to be insured in an amount less than the coverage amount specified in paragraph (1) or in effect pursuant to subsection (b), the amount of the allowance under this section for a month shall be equal to the amount of the deduction made for that month under subsection (a)(1) of section 1969 of title 38 from the basic pay of the member for the amount of Servicemembers' Group Life Insurance coverage actually held by the member under section 1967 of such title.''

Pub. L. 109–364, § 606(b)(1)(A), as amended by Pub. L. 110–181, struck out ''(1)'' before ''In the case of''.

Subsec. (a)(1). Pub. L. 109–364, § 606(a), substituted ''for the amount of Servicemembers' Group Life Insurance coverage held by the member under section 1967 of such title'' for ''for the first $150,000 of Servicemembers' Group Life Insurance coverage held by the member under section 1967 of such title''.

Subsecs. (b), (c). Pub. L. 109–364, § 606(b)(2), (3), redesignated subsec. (c) as (b), in par. (2) substituted ''maximum coverage amount available for such insurance,'' for ''coverage amount specified in subsection (a)(1) or in effect pursuant to subsection (b),'', and struck out former subsec. (b). Text read as follows: ''For purposes of subsection (a), the Secretary of Defense is authorized to increase the coverage amount specified in paragraph (1) of such subsection to permit the reimbursement of all or an additional amount of the deduction made under section 1969(a)(1) of title 38 for levels of coverage in excess of $150,000 for members under the Servicemembers' Group Life Insurance program.''

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title X, § 1063(c), Jan. 28, 2008, 122 Stat. 322, provided that the amendment made by section 1063(c)(5) is effective as of Oct. 17, 2006, and as if included in Pub. L. 109–364 as enacted.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title VI, § 606(d), Oct. 17, 2006, 120 Stat. 2246, provided that: ''The amendments made by this section [amending this section] shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act [Oct. 17, 2006] and shall apply with respect to service by members of the Armed Forces in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom for months beginning on or after that date.''

EFFECTIVE DATE

Pub. L. 109–163, div. A, title VI, § 613(c), Jan. 6, 2006, 119 Stat. 3292, provided that: ''Section 437 of title 37, United States Code, as added by subsection (a), shall apply with respect to service by members of the Armed Forces in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom for months beginning on or after the date of the enactment of this Act [Jan. 6, 2006]. In the case of members who are serving in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom as of such date, the Secretary of Defense shall provide such members, as soon as practicable, the information specified in subsection (c) of that section.''

## § 438. Preventive health services allowance

(a) DEMONSTRATION PROJECT.—During the period beginning on January 1, 2009, and ending on December 31, 2011, the Secretary of Defense shall conduct a demonstration project designed to evaluate the efficacy of providing an annual allowance (to be known as a ''preventive health services allowance'') to members of the armed forces described in subsection (b) to increase the use of preventive health services by such members and their dependents.

(b) ELIGIBLE MEMBERS.—(1) Subject to the numerical limitations specified in paragraph (2), a member of the armed forces who is serving on active duty for a period of more than 30 days and meets the medical and dental readiness requirements for the armed force of the member may receive a preventive health services allowance.

(2) Not more than 1,500 members of each of the Army, Navy, Air Force, and Marine Corps may receive a preventive health services allowance during any year, of which half in each armed force shall be members without dependents and half shall be members with dependents.

(c) AMOUNT OF ALLOWANCE.—The Secretary of the military department concerned shall pay a preventive health services allowance to a member selected to receive the allowance in an amount equal to—

(1) $500 per year, in the case of a member without dependents; and

(2) $1,000 per year, in the case of a member with dependents.

(d) AUTHORIZED PREVENTIVE HEALTH SERVICES.—(1) The Secretary of Defense shall specify the types of preventive health services that may be procured using a preventive health services allowance and the frequency at which such services may be procured.

(2) At a minimum, authorized preventive health services shall include, taking into consideration the age and gender of the member and dependents of the member:

(A) Colorectal screening.
(B) Breast screening.
(C) Cervical screening.
(D) Prostate screening.
(E) Annual physical exam.
(F) Annual dental exam.
(G) Weight and body mass screening.
(H) Vaccinations.

(3) The Secretary of Defense shall ensure that members selected to receive the preventive health services allowance and their dependents are provided a reasonable opportunity to receive the services authorized under this subsection in their local area.

(e) DATA COLLECTION.—At a minimum, the Secretary of Defense shall monitor and record the health of members receiving a preventive health services allowance and their dependents and the results of the testing required to qualify for payment of the allowance, if conducted. The Secretary shall assess the medical utility of the testing required to qualify for payment of a preventive health allowance.

(f) REPORTING REQUIREMENT.—Not later than March 31, 2010, and March 31, 2012, the Secretary of Defense shall submit to Congress a report on the status of the demonstration project, including findings regarding the medical status of participants, recommendations to modify the policies and procedures of the program, and recommendations concerning the future utility of the project.

(g) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added Pub. L. 110–417, [div. A], title VII, §714(a), Oct. 14, 2008, 122 Stat. 4504.)

### §439. Special compensation: members of the uniformed services with catastrophic injuries or illnesses requiring assistance in everyday living

(a) MONTHLY COMPENSATION AUTHORIZED.—The Secretary concerned may pay to any member of the uniformed services described in subsection (b) monthly special compensation in an amount determined under subsection (c).

(b) COVERED MEMBERS.—A member eligible for monthly special compensation authorized by subsection (a) is a member who—

(1) has a catastrophic injury or illness that was incurred or aggravated in the line of duty;

(2) has been certified by a licensed physician to be in need of assistance from another person to perform the personal functions required in everyday living;

(3) in the absence of the provision of such assistance, would require hospitalization, nursing home care, or other residential institutional care; and

(4) meets such other criteria, if any, as the Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) prescribes for purposes of this section.

(c) AMOUNT.—(1) The amount of monthly special compensation payable to a member under subsection (a) shall be determined under criteria prescribed by the Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard), but may not exceed the amount of aid and attendance allowance authorized by section 1114(r)(2) of title 38 for veterans in need of aid and attendance.

(2) In determining the amount of monthly special compensation, the Secretary concerned shall consider the following:

(A) The extent to which home health care and related services are being provided by the Government.

(B) The value of the aid and attendance care necessary to assist the member in performing the personal functions required in everyday living, to be determined regardless of the sources of the care (other than the source identified in subparagraph (A)) actually being provided to the member.

(d) DURATION.—The eligibility of a member to receive special monthly compensation under subsection (a) expires on the earlier of the following:

(1) The last day of the month during which a 90-day period ends that begins on the date of the separation or retirement of the member.

(2) The last day of the month during which the member dies.

(3) The last day of the month during which the member is determined to be no longer afflicted with the catastrophic injury or illness referred to in subsection (b)(1).

(4) The last day of the month preceding the month during which the member begins receiving compensation under section 1114(r)(2) of title 38.

(e) CONSTRUCTION WITH OTHER PAY AND ALLOWANCES.—Monthly special compensation payable to a member under this section is in addition to any other pay and allowances payable to the member by law.

(f) BENEFIT INFORMATION.—(1) The Secretary of Defense, in collaboration with the Secretary of Veterans Affairs, shall ensure that members of the uniformed services who may be eligible for compensation under this section are made aware of the availability of such compensation by including information about such compensation in written and online materials for such members and their families.

(2) The Secretary of Defense shall ensure that a member eligible to receive special monthly compensation under this section is aware that the member's eligibility for such compensation will expire pursuant to subsection (d)(1) after the end of the 90-day period that begins on the date of the separation or retirement of the member even though the member has not begun to receive compensation under section 1114(r)(2) of title 38 before the end of such period.

(g) CATASTROPHIC INJURY OR ILLNESS DEFINED.—In this section, the term ''catastrophic injury or illness'' means a permanent, severely disabling injury, disorder, or illness that the Secretary concerned determines compromises the ability of the afflicted person to carry out the activities of daily living to such a degree that the person requires—

(1) personal or mechanical assistance to leave home or bed; or

(2) constant supervision to avoid physical harm to self or others.

(h) REGULATIONS.—The Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) shall prescribe regulations to carry out this section.

(Added Pub. L. 111–84, div. A, title VI, §603(a), Oct. 28, 2009, 123 Stat. 2348.)

## CHAPTER 9—LEAVE

Sec.
501. Payments for unused accrued leave.
502. Absences due to sickness, wounds, and certain other causes.
503. Absence without leave or over leave.
504. Cadets and midshipmen: chapter does not apply to.

AMENDMENTS

1990—Pub. L. 101–510, div. A, title XIV, §1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

### §501. Payments for unused accrued leave

(a) In this section, the term ''discharge'' means—

(1) in the case of an enlisted member, separation or release from active duty under honorable conditions, termination of an enlistment in conjunction with the commencement of a successive enlistment (without regard to the date of the expiration of the term of the enlistment being terminated), or appointment as an officer;

(2) in the case of an officer, separation or release from active duty under honorable conditions; and

(3) in the case of either an officer or an enlisted member, death while on active duty unless the decedent was put to death as lawful punishment for a crime or a military offense.

(b)(1) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration, who has accrued leave to his credit at the time of his discharge, is entitled to be paid in cash or by a check on the Treasurer of the United States for such leave on the basis of the basic pay to which he was entitled on the date of discharge.

(2) Payment may not be made under this subsection to a member who is discharged for the purpose of accepting an appointment or a warrant in any uniformed service.

(3) Payment may not be made to a member for any leave he elects to have carried over to a new enlistment in any uniformed service on the day after the date of his discharge; but payment may be made to a member for any leave he elects not to carry over to a new enlistment. However, the number of days of leave for which payment is made may not exceed sixty, less the number of days for which payment was previously made under this section after February 9, 1976.

(4) A member to whom a payment may not be made under this subsection, or a member who reverts from officer to enlisted status, carries the accrued leave standing to his credit from the one status to the other within any uniformed service.

(5) The limitation in the second sentence of paragraph (3) and in subsection (f) shall not apply with respect to leave accrued—

(A) by a member of a reserve component while serving on active duty in support of a contingency operation;

(B) by a member of the armed forces in the Retired Reserve while serving on active duty in support of a contingency operation;

(C) by a retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps or a member of the Fleet Reserve or Fleet Marine Corps Reserve while the member is serving on active duty in support of a contingency operation; or

(D) by a member of a reserve component while serving on active duty, full-time National Guard duty, or active duty for training for a period of more than 30 days but not in excess of 365 days.

(6) An enlisted member of the armed forces who would lose accumulated leave in excess of 120 days of leave under section 701(f)(1) of title 10 may elect to be paid in cash or by a check on the Treasurer of the United States for any leave in excess so accumulated for up to 30 days of such leave. A member may make an election under this paragraph only once.

(c) Unused accrued leave for which payment is made under subsection (b) is not considered as service for any purpose.

(d)(1) Payments for unused accrued leave under subsections (b) and (g), in the case of a member who dies while on active duty or in the case of a member or former member who dies after retirement or discharge and before he receives that payment, shall be made in accordance with section 2771 of title 10. In the case of a member who dies while on active duty, payment for unused accrued leave under subsections (b) and (g) shall be based upon the unused accrued leave the member carried forward into the leave year during which he died plus the unused leave that accrued to him during that leave year.

(2) The limitations in the second sentence of subsection (b)(3), subsection (f), and the second sentence of subsection (g) shall not apply with respect to a payment made under this subsection.

(e)(1) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration who is discharged under other than honorable conditions forfeits all accrued leave to his credit at the time of his discharge.

(2) The Secretary concerned may require that a member of a uniformed service who is discharged before completing six months of active duty because of a failure to serve satisfactorily (as determined by the Secretary concerned) forfeit all accrued leave to his credit at the time of his discharge.

(f) The number of days upon which payment under subsection (b) or (g) is based may not exceed sixty, less the number of days for which payment has been previously made under such subsections after February 9, 1976. For the purposes of this subsection, the number of days upon which payment may be based shall be determined without regard to any break in service or change in status in the uniformed services.

(g) An officer of the Regular Corps of the Public Health Service, or an officer of the Reserve Corps of the Public Health Service on active duty, who is credited with accumulated and accrued annual leave on the date of his separation, retirement, or release from active duty, shall, if his application for that leave is approved by the Secretary of Health and Human Services, be paid for that leave in a lump-sum on the basis of his basic pay, subsistence allowance, and allowance for quarters whether or not he is receiving that allowance on that date. However, the number of days upon which the lump-sum payment is based is subject to subsection (f). A lump-sum payment may not be made under this subsection to an officer—

(1) whose appointment expires or is terminated and who, without a break in active service, accepts a new appointment;

(2) who is retired for age in time of war and is continued on, or recalled to, active duty without a break in active service; or

(3) who is transferred to another department or agency of the United States under circumstances in which, by any other law, his leave may be transferred.

In this subsection, the term ''accumulated annual leave'' means unused accrued annual leave carried forward from one leave year into the next leave year, and the term ''accrued annual leave'' means the annual leave accruing to an officer during one leave year.

(h) Payment shall be made for all leave accumulated under section 701(g) of title 10 as soon

as possible after the name of the person concerned is removed from a missing status, as defined in section 551(2) of this title.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 480; Pub. L. 89–151, §§1, 2, Aug. 28, 1965, 79 Stat. 586; Pub. L. 89–718, §§49(a)(1), 65, Nov. 2, 1966, 80 Stat. 1121, 1123; Pub. L. 92–596, §2, Oct. 27, 1972, 86 Stat. 1318; Pub. L. 94–361, title III, §304(a)–(g), July 14, 1976, 90 Stat. 925, 926; Pub. L. 96–513, title V, §516(14), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 98–525, title VI, §606(a), Oct. 19, 1984, 98 Stat. 2537; Pub. L. 99–145, title VI, §682, Nov. 8, 1985, 99 Stat. 665; Pub. L. 100–26, §8(e)(6), (9), Apr. 21, 1987, 101 Stat. 286, 287; Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title VI, §637, Dec. 5, 1991, 105 Stat. 1383; Pub. L. 104–106, div. A, title VI, §641, Feb. 10, 1996, 110 Stat. 368; Pub. L. 106–65, div. A, title VI, §671, Oct. 5, 1999, 113 Stat. 674; Pub. L. 107–107, div. A, title VI, §651(a), Dec. 28, 2001, 115 Stat. 1152; Pub. L. 110–181, div. A, title V, §551(d), Jan. 28, 2008, 122 Stat. 117.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 501(a) ..... | 37:32(b), (d), (e), and (h). | Aug. 9, 1946, ch. 931, §2(b), (d), (e), (g), and (h), 60 Stat. 963; June 19, 1948, ch. 541, §1(a), 62 Stat. 506. |
| 501(b) ..... | 37:33(c) (less 3d and last sentences).<br>37:32(g). | Aug. 9, 1946, ch. 931, §4(c), (d), 60 Stat. 964; restated Aug. 4, 1947, ch. 475, §1 (less 1st 2 pars.), 61 Stat. 748; July 24, 1956, ch. 682, §1, 70 Stat. 625. |
| | 37:39 (less last proviso). | Aug. 17, 1949, ch. 452, §1 (less last proviso), 63 Stat. 611. |
| 501(c) ..... | 37:33(c) (3d sentence). | |
| 501(d) ..... | 37:33(c) (last sentence). | |
| 501(e) ..... | 37:33(d). | |
| 501(f) ..... | 37:31a(b) (proviso). | Aug. 9, 1946, ch. 931, §3(b) (proviso); added Sept. 23, 1950, ch. 998, §1 (proviso), 64 Stat. 979. |
| 501(g) ..... | 42:210–1(c) (last sentence).<br>42:210–1(d) (as applicable to 42:210–1(c) (last sentence)). | July 1, 1944, ch. 373, §219(c) (last sentence), (d) (as applicable to (c) (last sentence)); added Aug. 9, 1950, ch. 654, §2 (last sentence of 3d par., and 4th par., as applicable to last sentence of 3d par.), 64 Stat. 426. |

In subsection (a), the word ''officer'' is substituted for the words ''commissioned officer or warrant officer'', in section 32(b) of existing title 37. The words ''persons may be treated as parents for the purposes of this clause'' are substituted for the words ''parents may receive the benefits provided under said sections'' in section 32(e) of existing title 37.

In subsections (b)–(d) and (f), the word ''payment'' is substituted for the word ''settlement''.

In subsection (b), the words ''in pay grade E–9, E–8, E–7, E–6, or E–5 with dependents, an allowance computed at the rate of $1.25 a day for quarters'' are substituted for the words ''the allowances as provided for such enlisted persons in subsection (a)''. The words ''after August 31, 1946'' are omitted as executed. The word ''basic'' is substituted for the words ''base and longevity'' to reflect current terminology.

In subsection (c), the word ''accrued'' is inserted to conform to subsection (b). The words ''and compensated for in cash'' are omitted as surplusage.

In subsection (d), the words ''and compensation'' and ''of the Armed Forces'' are omitted as surplusage. The words ''before he receives'' are substituted for the words ''without having received''.

In subsection (f), the words ''cash'' and ''unused or accumulated'' are omitted as surplusage. The words ''subsequent to August 31, 1946'' are omitted as executed.

In subsection (g), the word ''retirement'' is omitted as covered by the words ''separation or release from active duty''. The words ''under this subsection'' are substituted for the words ''for such unused leave''. The word ''appointment'' is substituted for the word ''commission''.

AMENDMENTS

2008—Subsec. (b)(6). Pub. L. 110–181 added par. (6).

2001—Subsec. (b)(5)(D). Pub. L. 107–107 added subpar. (D).

1999—Subsec. (a)(1). Pub. L. 106–65, §671(1), inserted '', termination of an enlistment in conjunction with the commencement of a successive enlistment (without regard to the date of the expiration of the term of the enlistment being terminated),'' after ''honorable conditions''.

Subsec. (b)(2). Pub. L. 106–65, §671(2), struck out '', or entering into an enlistment,'' after ''or a warrant''.

1996—Subsec. (d)(1). Pub. L. 104–106, §641(a)(1), struck out at end ''Except as provided in paragraph (2), the number of days upon which payment is based is subject to subsection (f).''

Subsec. (d)(2). Pub. L. 104–106, §641(a)(2), added par. (2) and struck out former par. (2) which read as follows: ''In the case of a member of the uniformed services who dies as a result of an injury or illness incurred while serving on active duty in support of a contingency operation, the limitations in the second sentence of subsection (b)(3), subsection (f), and the second sentence of subsection (g) shall not apply with respect to a payment made under this subsection for leave accrued during the contingency operation.''

Subsec. (f). Pub. L. 104–106, §641(b), struck out '', (d),'' before ''or (g) is based''.

1991—Subsec. (b)(5). Pub. L. 102–190, §637(b), added par. (5).

Subsec. (c). Pub. L. 102–25, §702(b)(1), struck out ''of this section'' after ''subsection (b)''.

Subsec. (d). Pub. L. 102–190, §637(a), designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2),'' for ''However,'', and added par. (2).

Pub. L. 102–25, §702(b)(1), struck out ''of this section'' after ''subsections (b) and (g)'' in two places.

Subsec. (f). Pub. L. 102–25, §702(b)(1), struck out ''of this section'' after ''subsection (b), (d), or (g)''.

1987—Subsec. (a). Pub. L. 100–26, §8(e)(6), inserted ''the term'' after ''In this section,''.

Subsec. (g). Pub. L. 100–26, §8(e)(9), inserted ''the term'' before ''`accumulated annual leave'' and ''`accrued annual leave' ''.

1985—Subsecs. (b)(3), (f). Pub. L. 99–145 substituted ''February 9, 1976'' for ''September 1, 1976''.

1984—Subsec. (e). Pub. L. 98–525, §606(a), designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (b)(3). Pub. L. 96–513, §516(14)(A), substituted ''September 1, 1976'' for ''the first day of the second calendar month following the month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted''.

Subsec. (d). Pub. L. 96–513, §516(14)(B), substituted ''unused'' for ''unusued''.

Subsec. (f). Pub. L. 96–513, §516(14)(A), (C), substituted ''September 1, 1976'' for ''the first day of the second calendar month following the month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted'', and inserted ''of this section'' after ''(g)''.

Subsec. (g). Pub. L. 96–513, §516(14)(C), substituted ''Secretary of Health and Human Services'' for ''Surgeon General''.

1976—Subsec. (a). Pub. L. 94–361, §304(a), (b), struck out cl. (1) designation for existing provisions, made definition applicable to the section rather than to subsecs.

(b) to (f) of this section, and redesignated as cls. (1), (2), and (3) former subcls. (A), (B), and (C); and struck out former cls. (2), (3), and (4) defining ''child'', ''parent'', and ''brother or sister'', respectively.

Subsec. (b). Pub. L. 94–361, § 304(c), in revising text, incorporated in provisions designated par. (1) provisions of former first and second sentences for payments for unused accrued leave of officers and enlisted members, striking out consideration of allowances to officers and of allowances to enlisted members computed at rate of 70 cents a day for subsistence and of allowance to enlisted members in pay grades E–9 through E–5 with dependents at rate of $1.25 for quarters, and substituting ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''; incorporated in par. (2) provisions of item (1) of former third sentence, substituting ''in any uniformed service'' for ''in his armed force''; incorporated in par. (3) provisions of item (2) of former third sentence, substituting ''in any uniformed service'' for ''in his armed force'' and inserting provisions for payment for leave not carried over to a new enlistment and prescribing number of days of leave for which payment may be made; and designated last (the fourth) sentence as par. (4), substituting ''within any uniformed service'' for ''within his armed force''.

Subsec. (d). Pub. L. 94–361, § 304(d), substituted provision making the number of days upon which payment is based subject to subsec. (f) for provision limiting to not more than 60 the number of days upon which the payment is based.

Subsec. (e). Pub. L. 94–361, § 304(e), substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

Subsec. (f). Pub. L. 94–361, § 304(f), added subsec. (f). Former subsec. (f), prohibiting payment for leave in excess of 60 days upon discharge or retirement, was struck out.

Subsec. (g). Pub. L. 94–361, § 304(g), substituted provision making the number of days upon which the lump-sum payment is based subject to subsec. (f) for provision limiting to not more than 60 the number of days upon which the lump-sum payment is based.

1972—Subsec. (d). Pub. L. 92–596, § 2(1), inserted reference to accumulated leave under subsection (h) of this section.

Subsec. (h). Pub. L. 92–596, § 2(2), added subsec. (h).

1966—Subsecs. (b), (e). Pub. L. 89–718, § 49(a)(1), substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''.

Subsec. (d). Pub. L. 89–718, § 65, substituted ''60'' for ''sixty''.

1965—Subsec. (a)(1). Pub. L. 89–151, § 1, added subpar. (C).

Subsec. (d). Pub. L. 89–151, § 2, included members who die while on active service and payments for unused accrued leave of members of the Public Health Service, substituted provisions referring to section 2771 of title 10 to find the mode of payment for provision spelling out the mode of payment in detail, omitted provisions prohibiting payment under this section in the event of no survivor and making valid any payments to survivors between the ages of 17 and 21, and inserted provisions basing payment for unused leave in the event of members dying while on active duty upon accrued leave carried forward into the year plus leave accruing during the year with a limit of 60 days.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title VI, § 651(b), Dec. 28, 2001, 115 Stat. 1153, provided that: ''Subparagraph (D) of section 501(b)(5) of title 37, United States Code, as added by subsection (a)(3), shall apply with respect to periods of active duty beginning on or after October 1, 2001.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 606(b) of Pub. L. 98–525 provided that: ''The amendments made by subsection (a) [amending this section] shall apply in the case of members of the uniformed service (as defined in section 101(3) of title 37, United States Code) who enlist or are commissioned on or after the date of the enactment of this Act [Oct. 19, 1984].''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–596 effective Feb. 28, 1961, see section 3 of Pub. L. 92–596, set out as a note under section 701 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 4 of Pub. L. 89–151 provided that: ''This Act [amending this section and section 701 of Title 10, Armed Forces] applies only in the case of members who die on or after the date of enactment [Aug. 28, 1965].''

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), 551(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.

TREATMENT OF ACCUMULATED LEAVE IN CONNECTION WITH ACTIVE DUTY DURING PERSIAN GULF CONFLICT

Section 309(a) of Pub. L. 102–25 provided that: ''In the case of a member of the uniformed services who dies as a result of an injury or illness incurred while serving on active duty during the Persian Gulf conflict, the limitation in the second sentence of subsection (b)(3) of section 501 of title 37, United States Code, and in subsection (f) of that section shall not apply with respect to a payment made pursuant to subsection (d) of that section for leave accrued during fiscal year 1990 or 1991.''

Pub. L. 101–510, div. A, title XI, § 1115, Nov. 5, 1990, 104 Stat. 1636, as amended by Pub. L. 102–25, title III, §§ 309(b), 314(1), (3), Apr. 6, 1991, 105 Stat. 83, 86, provided that:

''(a) INAPPLICABILITY OF ELIGIBILITY LIMITATION.—The limitation in the second sentence of subsection (b)(3) of section 501 of title 37, United States Code, and in subsection (f) of that section does not apply with respect to the following leave:

''(1) Leave accrued by a member of a reserve component of the Armed Forces while serving on active duty (other than for training) in connection with the Persian Gulf conflict pursuant to an order to active duty authorized under section 672, 673, 673b, or 674 [now 12301, 12302, 12304, or 12306] of title 10, United States Code.

''(2) Leave accrued by a member of the Armed Forces in the Retired Reserve while serving on active duty in connection with the Persian Gulf conflict pursuant to an order to active duty authorized by section 675 [now 12307] of title 10, United States Code.

''(3) Leave accrued by a retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, a member of the Retired Reserve, or a member of the Fleet Reserve or Fleet Marine Corps Reserve while such retired member or member, as the case may be, is serving on active duty in connection with the Persian Gulf conflict pursuant to an order to active duty authorized by section 688 of title 10, United States Code.

''(4) Leave accrued by a member referred to in paragraph (1), (2), or (3) while serving on active duty

(other than for training) in connection with the Persian Gulf conflict pursuant to an order to such active duty issued with the consent of the member during a period in which members of the Armed Forces are being ordered to active duty in connection with such operation pursuant to a provision of title 10, United States Code, referred to in such paragraph.

''(b) SAVING PROVISION FOR CERTAIN ACCRUED LEAVE.—(1) Subject to paragraph (2), a member of the Armed Forces who, under section 701(f) of title 10, United States Code—

''(A) would lose any accumulated leave in excess of 60 days at the end of fiscal year 1991 shall be permitted to retain such leave until the end of fiscal year 1992; or

''(B) would lose any accumulated leave in excess of 60 days at the end of fiscal year 1992 (other than by reason of clause (A)) shall be permitted to retain such leave until the end of fiscal year 1993.

''(2) In no case may a member be permitted to accumulate leave under this section in excess of 90 days.

''(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations establishing standards and procedures for the administration of this section.''

[Section 309(c) of Pub. L. 102–25 provided that: ''The amendment made by subsection (b) [amending section 1115(a) of Pub. L. 101–510, set out above] shall take effect as of November 5, 1990.'']

OPTIONS OF MEMBERS AS TO BASIS OF PAYMENT FOR ACCRUED LEAVE

Section 304(h) of Pub. L. 94–361 provided that: ''Notwithstanding the provisions of section 501(b)(1) of title 37, United States Code, as amended by subsection (c), and subject to the limitations prescribed in section 501(b)(3) of such title, as amended by subsection (c), any leave accrued by any member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration prior to the first day of the second calendar month following the month [July, 1976] in which this section is enacted shall, at the option of such member, be paid for on the same basis such leave would have been paid for under the provisions of section 501(b) of title 37, United States Code, on the day prior to the first day of the second calendar month following the month in which this section is enacted''.

## § 502. Absences due to sickness, wounds, and certain other causes

(a) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration, who is absent because of sickness or wounds, or who is directed by the Secretary concerned, or his designated representative, to be absent from duty to await orders pending disability retirement proceedings for a period that is longer than the leave authorized by section 701 of title 10, is entitled to the pay and allowances to which he would be entitled if he were not so absent. A member who is absent with leave for any other reason for not longer than the leave authorized by that section is entitled to the same pay and allowances to which he would be entitled if he were not on leave, and to any additional allowances otherwise provided by law for members on leave.

(b) Except as provided in subsection (a) and section 701(h) of title 10, a member who is authorized by the Secretary concerned, or his designated representative, to be absent for a period that is longer than the leave authorized by section 701 of title 10 is not entitled to pay or allowances during the part of his absence that is more than the number of days' leave authorized by that section.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 482; Pub. L. 89–718, § 49(a)(1), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 96–513, title V, § 516(15), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 99–661, div. A, title V, § 506(b), Nov. 14, 1986, 100 Stat. 3865; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 502(a) ..... | 37:33(b) (1st and last sentences).<br>37:39 (less last proviso). | Aug. 9, 1946, ch. 931, § 4(b) (less 3d sentence); restated Aug. 4, 1947, ch. 475, § 1 (2d par., less 3d sentence), 61 Stat. 748. |
| | 37:32(f) (last 8 words). | Aug. 9, 1946, ch. 931, § 2(f) (last 8 words), 60 Stat. 963. |
| 502(b) ..... | 37:33(b) (2d sentence). | Aug. 17, 1949, ch. 452, § 1 (less last proviso), 63 Stat. 611. |
| | 37:32(f) (last 8 words). | Aug. 9, 1946, ch. 931, § 2(f) (last 8 words), 60 Stat. 963. |

In subsection (a), the words ''After August 31, 1946'', in section 33(b) of existing title 37, are omitted as executed. The words ''allowance or'', in section 33(b) of existing title 37, are omitted as surplusage. The last sentence of section 33(b) of existing title 37 is omitted as executed, since the Act of December 28, 1945 (59 Stat. 663) was repealed by section 506(g) of the Officer Personnel Act of 1947 (61 Stat. 892).

In subsections (a) and (b), the words '', or his designated representative,'' are substituted for the last 8 words of section 32(f) of existing title 37.

In subsection (b), the words ''Except as provided in subsection (a) of this section'' are inserted for clarity. The words ''the part of his absence that is more than the number of days' leave authorized by that section'' are substituted for the words ''such absence''.

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

1986—Subsec. (b). Pub. L. 99–661 inserted ''and section 701(h) of title 10''.

1980—Subsec. (a). Pub. L. 96–513 substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

1966—Subsec. (a). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

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), 551(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.

## § 503. Absence without leave or over leave

(a) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration, who is absent without leave or over leave, forfeits all pay and allowances for the period of that absence, unless it is excused as unavoidable.

(b) A commissioned officer of the Regular Corps of the Public Health Service, or an officer of the Reserve Corps of the Public Health Service on active duty, who is absent without leave, forfeits all pay and allowances for the period of that absence, unless it is excused as unavoidable.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 482; Pub. L. 89–718, § 49(a)(1), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 96–513, title V, § 516(15), Dec. 12, 1980, 94 Stat. 2939.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 503(a) ..... | 37:33(b) (3d sentence). | Aug. 9, 1946, ch. 931, § 4(b) (3d sentence); restated Aug. 4, 1947, ch. 475, § 1 (3d sentence of 2d par.), 61 Stat. 748. |
| | 37:39 (less last proviso). | Aug. 17, 1949, ch. 452, § 1 (less last proviso), 63 Stat. 611. |
| 503(b) ..... | 42:210–1(b). | July 1, 1944, ch. 373, § 219(b); added Aug. 9, 1950, ch. 654, § 2 (2d par.), 64 Stat. 426. |

In subsections (a) and (b), the words ''for the period of that absence'' are substituted for the words ''during such absence''.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–513 substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

1966—Subsec. (a). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) Pub. L. 96–513, set out as a note under section 101 of this title.

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), 551(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.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service, transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

### § 504. Cadets and midshipmen: chapter does not apply to

This chapter does not apply to cadets at the United States Military Academy, the United States Air Force Academy, the Coast Guard Academy, midshipmen at the United States Naval Academy, or cadets or midshipmen serving elsewhere in the armed forces.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 483.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 504 ..... | 37:38 (as applicable to payment for leave). | Aug. 9, 1946, ch. 931, § 10 (as applicable to payment for leave); added Aug. 4, 1947, ch. 475, § 3 (as applicable to payment for leave), 61 Stat. 749; Sept. 2, 1958, Pub. L. 85–861, § 33(d)(2), 72 Stat. 1567. |

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), 551(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.

## CHAPTER 10—PAYMENTS TO MISSING PERSONS

Sec.
551. Definitions.
552. Pay and allowances; continuance while in a missing status; limitations.
553. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations.
554. Travel and transportation; dependents; household and personal effects; trailers; additional movements; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable.
555. Secretarial review.
556. Secretarial determinations.
557. Settlement of accounts.
558. Income tax deferment.
559. Benefits for members held as captives.

AMENDMENTS

1990—Pub. L. 101–510, div. A, title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

1986—Pub. L. 99–399, title VIII, § 806(a)(2), Aug. 27, 1986, 100 Stat. 885, added item 559.

1972—Pub. L. 92–477, § 1(1), Oct. 9, 1972, 86 Stat. 793, inserted ''trailers; additional movements;'' after ''household and personal effects;'' in item 554.

1966—Pub. L. 89–554, § 5(b), Sept. 6, 1966, 80 Stat. 625, added chapter 10 and items 551 to 558.

### § 551. Definitions

In this chapter:

(1) The term ''dependent'', with respect to a member of a uniformed service, means—

(A) his spouse;

(B) his unmarried child (including an unmarried dependent stepchild or adopted child) under 21 years of age;

(C) his dependent mother or father;

(D) a dependent designated in official records; and

(E) a person determined to be dependent by the Secretary concerned, or his designee.

(2) The term ''missing status'' means the status of a member of a uniformed service who is officially carried or determined to be absent in a status of—

(A) missing;

(B) missing in action;

(C) interned in a foreign country;

(D) captured, beleaguered, or besieged by a hostile force; or

(E) detained in a foreign country against his will.

(3) The term ''pay and allowances'' means—

(A) basic pay;

(B) special pay;

(C) incentive pay;

(D) basic allowance for housing;

(E) basic allowance for subsistence; and

(F) station per diem allowances for not more than 90 days.

(Added Pub. L. 89–554, §5(b), Sept. 6, 1966, 80 Stat. 625; amended Pub. L. 99–145, title XIII, §1301(g), Nov. 8, 1985, 99 Stat. 737; Pub. L. 100–26, §8(e)(10), Apr. 21, 1987, 101 Stat. 287; Pub. L. 105–85, div. A, title VI, §603(d)(1)(D), Nov. 18, 1997, 111 Stat. 1782.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 551(1) ..... | 50 App. 1001. | Mar. 7, 1942, ch. 166, §1, 56 Stat. 143; July 1, 1944, ch. 371, §1, 58 Stat. 679; Aug. 14, 1964, Pub. L. 88–428, §1(1), (2), 78 Stat. 437. |
| 551(2) ..... | 50 App. 1002(a) (22d through 66th words of 1st sentence, for definition purposes). | Mar. 7, 1942, ch. 166, §2(a) (22d through 66th and 96th through 120th words of 1st sentence, for definition purposes); added July 1, 1944, ch. 371, §2, 58 Stat. 679; Apr. 4, 1953, ch. 17, §1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85–217, §1(b) (1st par.), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88–428, §1(3)(A), 78 Stat. 437. |
| 551(3) ..... | 50 App. 1002(a) (96th through 120th words of 1st sentence, for definition purposes). | |

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

The words ''In this chapter'' are substituted for ''For the purpose of this Act''.

In clause (1), the words ''with respect to a member of a uniformed service'' are inserted for clarity. In clause (1)(A), the word ''lawful'' is omitted as unnecessary in view of the accepted recognition of the fact that the word ''wife'' means a lawful wife. In clause (1)(E), the words ''Secretary concerned, or his designee'' are substituted for ''head of the department concerned, or subordinate designated by him'' to conform to the definition in 37 U.S.C. 101(5). The definitions of ''person'', ''active service'', and ''department'', respectively, in 50 App. U.S.C. 1001(a)(1), (b), and (d) are omitted as unnecessary in view of the definitions of ''member'', ''uniformed services'', ''active service'', and ''Secretary concerned'', in 37 U.S.C. 101(3), (5), (20), and (23).

The definitions in clauses (2) and (3), which do not appear in, but are based on, the source law are created for legislative convenience.

AMENDMENTS

1997—Par. (3)(D). Pub. L. 105–85 substituted ''housing'' for ''quarters''.

1987—Pub. L. 100–26 substituted ''In this chapter:'' for ''In this chapter—'', inserted ''The term'' at beginning of pars. (1) to (3), and substituted period for semicolon at end of par. (1) and period for ''; and'' at end of par. (2).

1985—Par. (1)(A). Pub. L. 99–145 substituted ''spouse'' for ''wife''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

## §552. Pay and allowances; continuance while in a missing status; limitations

(a) A member of a uniformed service who is on active duty or performing inactive-duty training, and who is in a missing status, is—

(1) for the period he is in that status, entitled to receive or have credited to his account the same pay and allowances, as defined in this chapter, to which he was entitled at the beginning of that period or may thereafter become entitled; and

(2) for the period, not to exceed one year, required for his hospitalization and rehabilitation after termination of that status, under regulations prescribed by the Secretaries concerned, with respect to incentive pay, considered to have satisfied the requirements of section 301 of this title so as to entitle him to a continuance of that pay.

However, a member who is performing full-time training duty or other full-time duty without pay, or inactive-duty training with or without pay, is entitled to the pay and allowances to which he would have been entitled if he had been on active duty with pay. Notwithstanding section 1523 of title 10 or any other provision of law, the promotion of a member while he is in a missing status is fully effective for all purposes.

(b) The expiration of a member's term of service while he is in a missing status does not end his entitlement to pay and allowances under subsection (a). Notwithstanding the death of a member while in a missing status, entitlement to pay and allowances under subsection (a) ends on the date—

(1) the Secretary concerned receives evidence that the member is dead; or

(2) that his death is prescribed or determined under section 555 of this title or under chapter 76 of title 10.

(c) A member is not entitled to pay and allowances under subsection (a) for a period during which he is officially determined to be absent from his post of duty without authority, and he is indebted to the United States for payments from amounts credited to his account for that period.

(d) A member who is performing full-time training duty or inactive-duty training is entitled to the benefits of this section only when he is officially determined to be in a missing status that results from the performance of duties prescribed by competent authority.

(e) A member in a missing status who is continued in that status under section 555 of this title or under chapter 76 of title 10 is entitled to be credited with pay and allowances under subsection (a).

(Added Pub. L. 89–554, §5(b), Sept. 6, 1966, 80 Stat. 625; amended Pub. L. 92–169, §1, Nov. 24, 1971, 85 Stat. 489; Pub. L. 92–482, Oct. 12, 1972, 86 Stat. 796; Pub. L. 93–26, §1, Apr. 27, 1973, 87 Stat. 26;

Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title V, § 569(c)(2), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 552(a) ..... | 50 App. 1002(a) (1st sentence, less last 46 words). | Mar. 7, 1942, ch. 166, § 2(a); added July 1, 1944, ch. 371, § 2, 58 Stat. 679; Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85–217, § 1(b) (1st par.), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88–428, § 1(3), 78 Stat. 437. |
| | 50 App. 1014 (as applicable to § 1002(a) (1st sentence)). | Mar. 7, 1942, ch. 166, § 14 (as applicable to § 2(a) (1st and last sentences)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21. |
| 552(b) ..... | 50 App. 1002(a) (last 46 words of 1st sentence, and 2d sentence). | |
| 552(c) ..... | 50 App. 1002(a) (3d sentence). | |
| 552(d) ..... | 50 App. 1002(a) (last sentence). | |
| | 50 App. 1014 (as applicable to § 1002(a) (last sentence)). | |
| 552(e) ..... | 50 App. 1006 (2d sentence as applicable to pay and allowances). | Mar. 7, 1942, ch. 166, § 6 (2d sentence, as applicable to pay and allowances); added Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88–428, § 1(5)(B), 78 Stat. 437. |

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the first 22 words are substituted for 50 App. U.S.C. 1002(a) (1st 66 words) to conform to the definitions in 37 U.S.C. 101(3), (18), (20), (22), and (23) and revised section 551(2) of this chapter. The words ''pay and allowances, as defined in this chapter,'' are substituted for the enumeration of pay and allowances in 50 App. U.S.C. 1002(a) (1st sentence) to conform to the definition in revised section 551(3) of this chapter. The words ''on active duty'' are substituted for ''performing full-time active duty'' to conform to the definition in 37 U.S.C. 101(18).

In subsection (b), the first sentence is substituted for 50 App. U.S.C. 1002(a) (1st 21 words of 2d sentence). The words ''or employment'' are omitted as inapplicable to members of the uniformed services. The words ''entitlement to pay and allowances under subsection (a) of this section'' are substituted for ''Such entitlement to pay and allowances'' for clarity. The words ''Notwithstanding the death of a member while in a missing status'' are substituted for 50 App. U.S.C. 1002(a) (2d sentence, less 1st 21 words). The word ''member'' is substituted for ''person'' and the word ''Secretary'' is substituted for ''department'' to conform to the definitions in 37 U.S.C. 101(5) and (23).

In subsection (c), the words ''A member'' are substituted for ''such person''. The words ''under subsection (a) of this section'' are inserted for clarity. The words ''United States'' are substituted for ''Government'' to conform to the style of title 37.

In subsection (d), the words ''A member . . . he . . . in a missing status'' are substituted for ''Persons'', ''such persons'', and the enumerated absent stata to conform to the definitions in 37 U.S.C. 101(23) and revised section 551(2) of this chapter.

In subsection (e), the words ''A member in a missing status'' are substituted for ''a person missing under the conditions specified in section 2 of this Act'' to conform to the definition in revised section 551(2) of this chapter. The words ''under subsection (a) of this section'' are substituted for ''as provided in section 2 of this Act''.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106, § 569(c)(2)(A), substituted ''for all purposes'' for ''for all purposes, even though the Secretary concerned determines under section 556(b) of this title that the member died before the promotion was made''.

Subsec. (b)(2). Pub. L. 104–106, § 569(c)(2)(B), inserted ''or under chapter 76 of title 10'' before period at end.

Subsec. (e). Pub. L. 104–106, § 569(c)(2)(C), inserted ''or under chapter 76 of title 10'' after ''section 555 of this title''.

1991—Subsecs. (b), (c), (e). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)'' wherever appearing.

1973—Subsec. (a). Pub. L. 93–26 provided for full effectiveness for all purposes of promotion of a member while he is in a missing status notwithstanding a determination of the Secretary of death of the member before the making of the promotion.

1972—Subsec. (a). Pub. L. 92–482 designated existing provisions as cl. (1), added cl. (2), and struck out provisions relating to effectiveness of the promotion of a member of the uniformed services while he is in a missing status and the Secretary concerned determines under section 556(b) of this title that the member died before the promotion was made.

1971—Subsec. (a). Pub. L. 92–169 provided that promotion of a member of the uniformed services while he is in a missing status is fully effective for all purposes even though the Secretary concerned determines that the member died before the promotion was made.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2 of Pub. L. 93–26 provided that: ''For the purposes of chapter 13 [§ 1301 et seq.] of title 38, United States Code, this Act [amending this section] becomes effective as of November 24, 1971. For all other purposes this Act becomes effective as of February 28, 1961.''

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–169 effective for the purposes of chapter 13 (§ 1301 et seq.) of Title 38, Veterans' Benefits, on Nov. 24, 1971, and for all other purposes effective as of Feb. 28, 1961, see section 3 of Pub. L. 92–169, set out as a note under section 1302 of Title 38.

## § 553. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations

(a) Notwithstanding the end of the period for which it was made, an allotment, including one for the purchase of United States savings bonds, made by a member of a uniformed service before he was in a missing status may be continued for the period he is entitled to pay and allowances under section 552 of this title.

(b) When there is no allotment in effect, or when it is insufficient for a purpose authorized by the Secretary concerned, he, or his designee, may authorize new allotments or increases in allotments that are warranted by the circumstances and payable for the period the member is entitled to pay and allowances under section 552 of this title.

(c) The total of all allotments from the pay and allowances of a member in a missing status may not be more than the amount of pay and allowances he is permitted to allot under regulations prescribed by the Secretary concerned.

(d) A premium paid by the United States on insurance issued on the life of a member which is unearned because it covers a period after his death reverts to the appropriation of the department concerned.

(e) Subject to subsections (f) and (g), the Secretary concerned, or his designee, may, when he considers it in the interest of the member, his dependents, or the United States, direct the initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of payments of allotments from the pay and allowances of a member entitled to pay and allowances under section 552 of this title.

(f) When the Secretary concerned officially reports that a member in a missing status is alive, the payments of allotments authorized by subsections (a)–(d) may, subject to section 552 of this title, be made until the date on which, in a case covered by section 555 of this title, the Secretary concerned receives evidence, or, in a case covered by chapter 76 of title 10, the Secretary concerned determines pursuant to that chapter, that the member is dead or has returned to the controllable jurisdiction of the department concerned.

(g) A member in a missing status who is continued in that status under section 555 of this title or under chapter 76 of title 10 is entitled to have the payments of allotments authorized by subsections (a)–(d) continued, increased, or initiated.

(h) When the Secretary concerned considers it essential for the well-being and protection of the dependents of a member on active duty (other than a member entitled to pay and allowances under section 552 of this title), he may, with or without the consent, and subject to termination at the request, of the member—

(1) direct the payment of a new allotment from the pay of the member;

(2) increase or decrease the amount of an allotment made by the member; and

(3) continue payment of an allotment of the member which has expired.

(Added Pub. L. 89–554, §5(b), Sept. 6, 1966, 80 Stat. 626; amended Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title V, §569(c)(3), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 553(a) ..... | 50 App. 1003 (1st sentence). | Mar. 7, 1942, ch. 166, §3, 56 Stat. 144; Dec. 24, 1942, ch. 828, §1 (1st par.), Stat. 1092; July 1, 1944, ch. 371, §3, 58 Stat. 680. |
| 553(b) ..... | 50 App. 1003 (2d sentence, less provisos). | |
| 553(c) ..... | 50 App. 1003 (1st proviso of 2d sentence). | |
| 553(d) ..... | 50 App. 1003 (2d proviso of 2d sentence) | |
| 553(e) ..... | 50 App. 1004. | Mar. 7, 1942, ch. 166, §4, 56 Stat. 144; Dec. 24, 1942, ch. 828, §1 (2d par.), 56 Stat. 1093; July 1, 1944, ch. 371, §4, 58 Stat. 680. |
| 553(f) ..... | 50 App. 1006 (1st sentence). 50 App. 1014 (as applicable to §1006 (1st sentence)). | Mar. 7, 1942, ch. 166, §6 (1st sentence and 2d sentence, as applicable to allotments); added Dec. 24, 1942, ch. 828, §1 (4th par.), 56 Stat. 1093; Apr. 4, 1953, ch. 17, §1(b), 67 Stat. 21; Aug. 14, 1964, Pub. L. 88–428, §1(5), 78 Stat. 437. |
| 553(g) ..... | 50 App. 1006 (2d sentence, as applicable to allotments). | |

HISTORICAL AND REVISION NOTES—Continued

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 553(h) ..... | 50 App. 1007. | Mar. 7, 1942, ch. 166, §7, 56 Stat. 145; Aug. 14, 1964, Pub. L. 88–428, §1(6), 78 Stat. 437. Mar. 7, 1942, ch. 166, §14 (as applicable to §6 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21. |

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words ''a member of a uniformed service . . . in a missing status . . . he . . . under section 552 of this title'' are substituted for ''any person . . . under section 2 of this Act . . . his absence'', for clarity and to conform to the definition in revised section 551(2) of this chapter. The words ''except as otherwise herein provided'' are omitted as unnecessary.

In subsection (b), the words ''Secretary concerned, he, or his designee,'' are substituted for ''head of the department concerned . . . head of the department concerned, or such subordinate as he may designate'' to conform to the definition in 37 U.S.C. 101(5). The word ''member'' is substituted for ''person'' to conform to the definition in 37 U.S.C. 101(23).

In subsection (c), the words ''in effect'' are omitted as unnecessary. The words ''member in a missing status'' are substituted for ''absent person'' to conform to the definition in revised section 551(2) of this chapter.

In subsection (d), the words ''United States'' are substituted for ''Government'' to conform to the style of title 37. The word ''member'' is substituted for ''person'' to conform to the definition in 37 U.S.C. 101(23).

In subsection (e), the words ''Secretary concerned, or his designee,'' are substituted for ''head of the department concerned, or such subordinates as he may designate,'' to conform to the definition in 37 U.S.C. 101(5). The words ''United States'' are substituted for ''Government'' to conform to the style of title 37. The words ''when he considers it'' are substituted for ''When circumstances are deemed to justify such action''. The word ''member'' is substituted for ''person''.

In subsection (f), the words ''When the Secretary concerned officially reports that a member in a missing status'' are substituted for ''When it is officially reported by the head of the department concerned that a person missing under the conditions specified in section 2 of this Act''. The words ''the payments of allotments authorized by subsections (a)–(d) of this section may, subject to section 552 of this title . . . until the date the Secretary concerned'' are substituted for ''the payments authorized by section 3 of this Act are, subject to the provisions of section 2 of this Act, authorized to be made for a period not to extend beyond the date of the receipt by the head of the department concerned''. The words ''the member'' are substituted for ''the missing person''.

In subsection (g), the words ''A member in a missing status'' are substituted for ''a person missing under the conditions specified in section 2 of this Act''.

In subsection (h), the words ''Secretary concerned'' are substituted for ''head of the department concerned.'' The words ''a member on active duty'' are substituted for ''of persons in active service'' to conform to the definitions in 37 U.S.C. 101(20) and (23). In clause (2), the words ''heretofore or hereafter'' are omitted as unnecessary.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–106, §569(c)(3)(A), substituted ''the date on which, in a case covered by section 555 of this title, the Secretary concerned receives evidence, or, in a case covered by chapter 76 of title 10,

the Secretary concerned determines pursuant to that chapter, that'' for ''the date the Secretary concerned receives evidence that''.

Subsec. (g). Pub. L. 104–106, § 569(c)(3)(B), inserted ''or under chapter 76 of title 10'' after ''section 555 of this title''.

1991—Subsecs. (e) to (g). Pub. L. 102–25 struck out ''of this section'' after ''subsections (f) and (g)'' in subsec. (e) and after ''subsections (a)–(d)'' in subsecs. (f) and (g).

### § 554. Travel and transportation; dependents; household and personal effects; trailers; additional movements; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable

(a) In this section, ''household and personal effects'' and ''household effects'' may include, in addition to other authorized weight allowances, two privately owned motor vehicles which may be shipped at United States expense. Under regulations prescribed by the Secretaries concerned, and in place of the transportation of household and personal effects, a dependent, who would otherwise be entitled to transportation of household and personal effects under this section, may transport a house trailer or mobile dwelling within and between the areas specified in section 409 of this title for use as a residence by one of the following means—

(1) transport it and be reimbursed by the United States;

(2) deliver it to an agent of the United States for transportation by the United States or by commercial means; or

(3) have it transported by commercial means, and be reimbursed by the United States.

If a trailer or dwelling is transported under clause (2) or (3), that transportation may include two privately owned motor vehicles which may be shipped at United States expense. Transportation, and incidental costs, authorized by this section shall be at United States expense without any cost limitation, and any payment authorized may be made in advance of the transportation concerned.

(b) Transportation (including packing, crating, drayage, temporary storage, and unpacking of household and personal effects) may be provided for the dependents and household and personal effects of a member of a uniformed service on active duty (without regard to pay grade) who is officially reported as dead, injured, ill, or absent for a period of more than 29 days in a missing status—

(1) to the member's official residence of record;

(2) to the residence of his dependent, next of kin, or other person entitled to custody of the effects, under regulations prescribed by the Secretary concerned; or

(3) on request of the member (if injured or ill), or his dependent, next of kin, or other person described in clause (2), to another location determined in advance or later approved by the Secretary concerned, or his designee.

When he considers it necessary, the Secretary concerned may, with respect to the household and personal effects of a member who is officially reported as absent for a period of more than 29 days in a missing status, authorize the nontemporary storage of those effects for a period of one year, or longer when justified. In addition, he may authorize additional movements of, and prescribe transportation for, the dependents and household and personal effects, or the dependents and house trailer or mobile dwelling, of a member who is officially reported as absent for a period of more than one year in a missing status.

(c) When a member described in subsection (b) is in an injured or ill status, transportation of dependents and household and personal effects authorized by this section may be provided only when prolonged hospitalization or treatment is anticipated.

(d) Transportation requested by a dependent may be authorized under this section only if there is a reasonable relationship between the circumstances of the dependent and the requested destination.

(e) In place of the transportation for dependents authorized by this section, and after the travel is completed, the Secretary concerned may authorize—

(1) reimbursement for the commercial cost of the transportation; or

(2) a monetary allowance at the prescribed rate for all, or that part, of the travel for which transportation in kind is not furnished.

(f) The Secretary concerned may store the household and personal effects of a member described in subsection (b) until proper disposition can be made. The cost of the storage and transportation (including packing, crating, drayage, temporary storage, and unpacking) of household and personal effects shall be charged against appropriations currently available.

(g) The Secretary concerned may, when he determines that there is an emergency and a sale would be in the best interests of the United States, provide for the public or private sale of motor vehicles and other bulky items of household and personal effects of a member described in subsection (b). Before a sale, and if practicable, a reasonable effort shall be made to determine the desires of the interested persons. The net proceeds received from the sale shall, under regulations prescribed by the Secretary concerned, be sent to the owner or other persons. If there are no such persons, or if they or their addresses are not known within one year from the date of sale, the net proceeds may be covered into the Treasury as miscellaneous receipts.

(h) Claims for net proceeds that are covered into the Treasury under subsection (g) may be filed with the Secretary of Defense by the rightful owners, their heirs or next of kin, or their legal representatives at any time before the end of a 5-year period from the date the proceeds are covered into the Treasury. When a claim is filed, the Secretary of Defense shall allow or disallow it. A claim that is allowed shall be paid from the appropriation for refunding money erroneously received and covered. If a claim is not filed before the end of the 5-year period from the date the proceeds are covered into the Treasury, it is

barred from being acted on by the courts or the Secretary of Defense.

(i) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this section does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the dependent for expenses incurred after that date to rent a motor vehicle for the dependent's use. The amount reimbursed may not exceed $30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first). In a case in which two motor vehicles of a member (or the dependent or dependents of a member) are transported at the expense of the United States, no reimbursement is payable under this subsection unless both motor vehicles do not arrive at the authorized destination of the vehicles by the designated delivery date.

(j) This section does not amend or repeal—

(1) section 2575, 2733, 4712, 6522, or 9712 of title 10;

(2) section 507 of title 14; or

(3) chapter 171 of title 28.

(Added Pub. L. 89–554, §5(b), Sept. 6, 1966, 80 Stat. 627; amended Pub. L. 90–83, §5(2), Sept. 11, 1967, 81 Stat. 221; Pub. L. 90–236, Jan. 2, 1968, 81 Stat. 764; Pub. L. 90–623, §3(7), Oct. 22, 1968, 82 Stat. 1315; Pub. L. 92–477, §1, Oct. 9, 1972, 86 Stat. 793; Pub. L. 93–548, §3, Dec. 26, 1974, 88 Stat. 1743; Pub. L. 102–25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title X, §1063(a), Dec. 5, 1991, 105 Stat. 1476; Pub. L. 104–316, title II, §202(s), Oct. 19, 1996, 110 Stat. 3845; Pub. L. 105–261, div. A, title VI, §653(d), Oct. 17, 1998, 112 Stat. 2052; Pub. L. 107–314, div. A, title VI, §622(a), (b), Dec. 2, 2002, 116 Stat. 2571.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 554(a) ..... | 50 App. 1012 (14th sentence). | Mar. 7, 1942, ch. 166, §12, 56 Stat. 146; Feb. 12, 1946, ch. 6, §1(a), 60 Stat. 5; Aug. 29, 1951, ch. 356, §1, 65 Stat. 207; Apr. 4, 1953, ch. 17, §1(d), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85–217, §1(d), 71 Stat. 492; Aug. 14, 1964, Pub. L. 88–428, §1(8), 78 Stat. 437. |
| 554(b) ..... | 50 App. 1012 (1st sentence). | |
| | 50 App. 1014 (as applicable to §1012 (1st sentence)). | Mar. 7, 1942, ch. 166, §14 (as applicable to §12 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21. |
| 554(c) ..... | 50 App. 1012 (12th sentence). | |
| 554(d) ..... | 50 App. 1012 (13th sentence). | |
| 554(e) ..... | 50 App. 1012 (11th sentence). | |
| 554(f) ..... | 50 App. 1012 (9th and 10th sentences). | |
| 554(g) ..... | 50 App. 1012 (2d–4th sentences). | |
| 554(h) ..... | 50 App. 1012 (5th–7th sentences). | |
| 554(i) ..... | 50 App. 1012 (8th sentence). | |

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words ''Beginning June 25, 1950, and'' are omitted as executed. The words ''In this section'' are substituted for ''for the purposes of this section only, the terms''. The words ''not to exceed'' are omitted as unnecessary. The words ''outside the United States, or in Alaska or Hawaii'' are substituted for ''outside the continental limits of the United States or in Alaska'' to conform to the definition in 37 U.S.C. 101(1).

In subsection (b), the words ''Transportation . . . may be provided'' are substituted for ''may be moved''. The words ''a member of a uniformed service on active duty . . . or absent for a period of more than 29 days in a missing status'' are substituted for ''any person in active service . . . absent for a period of thirty days or more in any status listed in section 2 of this Act'', for clarity and to conform to the definitions in 37 U.S.C. 101(20) and (23) and revised section 551(2) of this chapter. In clause (1), the words ''the member's'' are substituted for ''for any such person''. In clause (2), the words ''under . . . prescribed . . . Secretary concerned'' are substituted for ''in accordance with . . . issued . . . head of the department concerned''. In clause (3), the words ''on request of the member'' are substituted for ''upon the person's application''. The words ''other person described in clause (2)'' are substituted for ''such . . . other person''. The words ''Secretary concerned, or his designee'' are substituted for ''head of the department concerned or by such person as he may designate''.

In subsection (c), the words ''a member described in subsection (b) of this section'' are substituted for ''the person''. The words ''transportation . . . authorized by this section'' are substituted for ''the movement . . . provided for herein''. The words ''provided . . . when'' are substituted for ''authorized . . . in cases where''.

In subsection (d), the words ''requested by a dependent may be authorized under . . . only'' are substituted for ''No . . . shall be authorized pursuant to . . . upon application by dependents unless''. The words ''condition and'' are omitted as unnecessary.

In subsection (e), the words ''In place . . . the Secretary concerned'' are substituted for ''In lieu . . . the head of the department concerned''. In clause (1), the words ''reimbursement for'' are substituted for ''the payment in money of amounts equal to''. The words ''in lieu of transportation'', the second time they appear, are omitted as unnecessary. In clause (2), the words ''at the prescribed rate'' are substituted for ''as authorized by law''.

In subsection (f), the words ''Secretary concerned'' are substituted for ''head of the department concerned''. The words ''a member described in subsection (b) of this section'' are substituted for ''the person''. The words ''such time as'' are omitted as unnecessary.

In subsection (g), the words ''Secretary concerned'' are substituted for ''head of the department concerned'', in 50 App. U.S.C. 1012 (2nd and 4th sentences). The words ''United States'' are substituted for ''Government''; and the words ''a member described in subsection (b) of this section'' are substituted for ''the person'', in 50 App. U.S.C. 1012 (2d sentence). The words ''under . . . prescribed'' are substituted for ''in accordance with . . . issued'', and the word ''known'' is substituted for ''ascertainable'', in 50 App. U.S.C. 1012 (4th sentence).

In subsection (h), the words ''under subsection (g) of this section'' are substituted for ''under the authority of this section'', in 50 App. U.S.C. 1012 (5th sentence).

In subsection (i), the words ''the provisions of'' are omitted as unnecessary. Clause (3) is substituted for ''the Federal Tort Claims Act (60 Stat. 842–847), as amended,'' to reflect the correct citation of that Act.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–314, §622(a), substituted ''two privately owned motor vehicles'' for ''one privately owned motor vehicle'' in introductory and concluding provisions.

Subsec. (i). Pub. L. 107–314, § 622(b), inserted at end ''In a case in which two motor vehicles of a member (or the dependent or dependents of a member) are transported at the expense of the United States, no reimbursement is payable under this subsection unless both motor vehicles do not arrive at the authorized destination of the vehicles by the designated delivery date.''

1998—Subsecs. (i), (j). Pub. L. 105–261 added subsec. (i) and redesignated former subsec. (i) as (j).

1996—Subsec. (h). Pub. L. 104–316 substituted ''Secretary of Defense'' for ''General Accounting Office'' wherever appearing.

1991—Subsec. (a). Pub. L. 102–25, § 702(b)(2), struck out ''of this subsection'' after ''clause (2) or (3)''.

Subsecs. (c), (f) to (h). Pub. L. 102–25, § 702(b)(1), struck out ''of this section'' after ''subsection (b)'' in subsecs. (c), (f), (g), and (h) and after ''subsection (g)'' in subsec. (h).

Subsec. (i)(1). Pub. L. 102–190 substituted ''6522, or 9712'' for ''4713, 6522, 9712, or 9713''.

1974—Subsec. (b). Pub. L. 93–548, § 3(1)(A), inserted ''ill,'' after ''injured,''.

Subsec. (b)(3). Pub. L. 93–548, § 3(1)(B), inserted ''or ill'' after ''injured''.

Subsec. (c). Pub. L. 93–548, § 3(2), inserted ''or ill'' before ''status''.

1972—Pub. L. 92–477, § 1(1), inserted ''trailers; additional movements;'' after ''household and personal effects;'' in section catchline.

Subsec. (a). Pub. L. 92–477, § 1(2), authorized at Government expense without cost limitation and under prescribed regulations the transportation of house trailers or mobile dwellings, including a privately owned motor vehicle, in place of household and personal effects of members in a missing status.

Subsec. (b). Pub. L. 92–477, § 1(3), authorized additional movements of and transportation for dependents and household and personal effects, or dependents and house trailer or mobile dwelling of members in a missing status for more than one year.

1968—Subsec. (b). Pub. L. 90–623 substituted ''29'' for ''twenty-nine''.

Pub. L. 90–236 inserted provision authorizing nontemporary storage of household and personal effects of a member who is officially reported as absent for a period of more than 29 days in a missing status.

1967—Subsec. (a). Pub. L. 90–83 struck out ''when it is located outside the United States, or in Alaska or Hawaii'' after ''shipped at United States expense''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title VI, § 622(c), Dec. 2, 2002, 116 Stat. 2571, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to members whose eligibility for benefits under section 554 of title 37, United States Code, commences on or after the date of the enactment of this Act [Dec. 2, 2002].''

EFFECTIVE DATE OF 1998 AMENDMENT

For provisions relating to the applicability of amendment by Pub. L. 105–261, see section 653(e) of Pub. L. 105–261, set out as a note under section 2634 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 4 of Pub. L. 93–548 provided that: ''The amendments made by section 3 of this Act [amending this section] shall apply with respect to members of the uniformed services incapacitated by illness on or after January 1, 1974.''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

## § 555. Secretarial review

(a) Except as provided in subsection (d), when a member of a uniformed service entitled to pay and allowances under section 552 of this title has been in a missing status, and the official report of his death or of the circumstances of his absence has not been received by the Secretary concerned, he shall, before the end of a 12-month period in that status, have the case fully reviewed. After that review and the end of the 12-month period in a missing status, or after a later review which shall be made when warranted by information received or other circumstances, the Secretary concerned, or his designee, may—

(1) if the member can reasonably be presumed to be living, direct a continuance of his missing status; or

(2) make a finding of death.

(b) When a finding of death is made under subsection (a), it shall include the date death is presumed to have occurred for the purpose of—

(1) ending the crediting of pay and allowances;

(2) settlement of accounts; and

(3) payment of death gratuities.

That date is—

(A) the day after the day on which the 12-month period in a missing status ends; or

(B) if the missing status has been continued under subsection (a), the day determined by the Secretary concerned, or his designee.

(c) For the sole purpose of determining status under this section, a dependent of a member on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(d) This section does not apply in a case to which section 1502 of title 10 applies.

(Added Pub. L. 89–554, § 5(b), Sept. 6, 1966, 80 Stat. 628; amended Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title V, § 569(c)(1), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 555(a) ..... | 50 App. 1005 (1st and 2d sentences). | Mar. 7, 1942, ch. 166, § 5, 56 Stat. 145; Dec. 24, 1942, ch. 828, § 1 (3d par.), 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88–428, § 1(4), 78 Stat. 437. |
| | 50 App. 1014 (as applicable to § 1005 (1st sentence)). | Mar. 7, 1942, ch. 166, § 14 (as applicable to § 5 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21. |
| 555(b) ..... | 50 App. 1005 (less 1st and 2d sentences). | |
| 555(c) ..... | 50 App. 1009(b) (as applicable to § 1005). | Mar. 7, 1942, ch. 166, § 9(b) (as applicable to § 5); added Aug. 29, 1957, Pub. L. 85–217, § 1(c), 71 Stat. 492. |

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words ''member of a uniformed service'' are substituted for ''person''. The words ''in a missing status'' and ''in that status'' are substituted for ''absence'' in three places. The words ''Secretary concerned'' are substituted for ''head of the department concerned'' in two places. In the second sentence, the words ''or his designee'' are supplied on authority of 50 App. U.S.C. 1009 which is codified in part in revised section 556(a) of this chapter. In clause (1), the words ''member'' and ''his'' are substituted for ''person's'' and ''person'', respectively.

In subsection (b), the words ''under subsection (a) of this section'' are inserted for clarity. In clause (A), the words ''day on which the 12-month period in a missing status ends'' are substituted for ''day of expiration of an absence of twelve months''. In clause (B), the words ''under subsection (a) of this section'' are substituted for ''as hereinbefore authorized''. The words ''Secretary concerned'' are substituted for ''head of the department concerned.'' The words ''or his designee'' are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter.

In subsection (c), the first sentence is substituted for 50 App. U.S.C. 1009(b) (1st 31 words, as applicable to §1005). The words ''Secretary concerned'' are substituted for ''head of the department concerned''. The words ''or his designee'' are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter. The words ''departments and agencies of the United States'' are substituted for ''departments of the Government'' in view of the definition of ''department'' in 50 App. U.S.C. 1001(d). The words ''This subsection does not entitle'' are substituted for ''*Provided*, That nothing in this section shall be construed as conferring . . . any right''.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106, §569(c)(1)(A), substituted ''Except as provided in subsection (d), when'' for ''When''.

Subsec. (d). Pub. L. 104–106, §569(c)(1)(B), added subsec. (d).

1991—Subsec. (b). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)'' in two places.

### §556. Secretarial determinations

(a) The Secretary concerned, or his designee, may make any determination necessary to administer this chapter and, when so made, it is conclusive as to—

(1) death or finding of death;

(2) the fact of dependency under this chapter;

(3) the fact of dependency for the purpose of paying six months' death gratuities authorized by law;

(4) the fact of dependency under any other law authorizing the payment of pay, allowances, or other emoluments to enlisted members of the armed forces, when the payments are contingent on dependency;

(5) any other status covered by this chapter;

(6) an essential date, including one on which evidence or information is received by the Secretary concerned; and

(7) whether information received concerning a member of a uniformed service is to be construed and acted on as an official report of death.

Paragraphs (1), (5), (6), and (7) only apply with respect to a case to which section 555 of this title applies.

(b) When the Secretary concerned, in a case to which section 555 of this title applies, receives information that he considers establishes conclusively the death of a member of a uniformed service, he shall, notwithstanding any earlier action relating to death or other status of the member, act on it as an official report of death. After the end of the 12-month period in a missing status prescribed by section 555 of this title, the Secretary concerned, or his designee, shall, when he considers that the information received, or a lapse of time without information, establishes a reasonable presumption that a member in a missing status is dead, make a finding of death.

(c) The Secretary concerned, or his designee, may determine the entitlement of a member to pay and allowances under this chapter, including credits and charges in his account, and that determination is conclusive. An account may not be charged or debited with an amount that a member captured, beleaguered, or besieged by a hostile force may receive or be entitled to receive from, or have placed to his credit by, the hostile force as pay, allowances, or other compensation.

(d) The Secretary concerned, or his designee, may, when warranted by the circumstances, reconsider a determination made under this chapter, and change or modify it.

(e) When the account of a member has been charged or debited with an allotment paid under this chapter, the amount so charged or debited shall be recredited to the account of the member if the Secretary concerned, or his designee, determines that the payment was induced by fraud or misrepresentation to which the member was not a party.

(f) Except an allotment for an unearned insurance premium, an allotment paid from pay and allowances of a member for the period he is entitled to pay and allowances under section 552 of this title may not be collected from the allottee as an overpayment when it was caused by delay in receiving evidence of death. An allotment payment for a period after the end of entitlement to pay and allowances under this chapter, or otherwise, which was caused by delay in receiving evidence of death, may not be collected from the allottee or charged against the pay of the deceased member.

(g) The Secretary concerned, or his designee, may waive the recovery of an erroneous payment or overpayment of an allotment to a dependent if he considers recovery is against equity and good conscience.

(h) For the sole purpose of determining pay under this section, a dependent of a member of a uniformed service on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section in a case to which section 555 of this title applies is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Added Pub. L. 89–554, §5(b), Sept. 6, 1966, 80 Stat. 629; amended Pub. L. 104–106, div. A, title V, §569(c)(4), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 556(a) ..... | 50 App. 1009(a) (1st and 2d sentences). | Mar. 7, 1942, ch. 166, § 9(a) (less 5th and last sentences); added July 1, 1944, ch. 371, § 5, 58 Stat. 680; Apr. 4, 1953, ch. 17, § 1(c), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85–217, § 1(c), 71 Stat. 492. |
| | 50 App. 1010. | Mar. 7, 1942, ch. 166, § 10, 56 Stat. 145; July 1, 1944, ch. 371, § 6, 58 Stat. 681; Aug. 14, 1964, Pub. L. 88–428, § 1(7), 78 Stat. 437. |
| 556(b) ..... | 50 App. 1009(a) (3d and 4th sentences). | |
| 556(c) ..... | 50 App. 1009(a) (6th sentence, less last proviso). | |
| | 50 App. 1014 (as applicable to § 1009(a) (1st proviso of 6th sentence)). | Mar. 7, 1942, ch. 166, § 14 (as applicable to § 9(a) (1st proviso of 6th sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21. |
| 556(d) ..... | 50 App. 1009(a) (7th sentence). | |
| 556(e) ..... | 50 App. 1009(a) (last proviso of 6th sentence). | |
| 556(f) ..... | 50 App. 1009(a) (8th sentence). | |
| 556(g) ..... | 50 App. 1009(a) (9th sentence). | |
| 556(h) ..... | 50 App. 1009(b) (as applicable to § 1009). | Mar. 7, 1942, ch. 166, § 9(b) (as applicable to § 9); added Aug. 29, 1957, Pub. L. 85–217, § 1(c), 71 Stat. 492. |

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words ''Secretary concerned, or his designee,'' are substituted for ''head of the department concerned, or such subordinate as he may designate,''. The words ''for the purposes of this Act'' are omitted as unnecessary. The words ''final and'' in 50 App. U.S.C. 1010 are omitted as unnecessary and for consistency with 50 App. U.S.C. 1009(a) (1st sentence). In clause (2), the words ''under this chapter'' are substituted for ''under the provisions of this Act''. In clause (4), the words ''enlisted members of the armed forces'' are substituted for ''enlisted personnel in the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States'' to conform to the definition in 37 U.S.C. 101(4). In clause (5), the words ''covered by this chapter'' are substituted for ''dealt with by this Act''. In clause (6), the words ''by the Secretary concerned'' are substituted for ''in such department or by the head thereof''. In clause (7), the word ''member'' is substituted for ''person''.

In subsection (b), the words ''Secretary concerned . . . a member of a uniformed service, he shall . . . the member, act on it'' are substituted for ''any person . . . department concerned, action shall be taken thereon . . . such person''. In the second sentence, the words ''After the end of the 12-month period in a missing status'' are substituted for ''If the twelve months' absence . . . has expired''. The words ''the Secretary concerned, or his designee'' are inserted for clarity. The words ''a member'' are substituted for ''any person''. The words ''missing status'' are substituted for ''missing or other status'' in view of the definition in revised section 551(2) of this chapter. The words ''is dead'' are substituted for ''is no longer alive'' for consistency with references in this section to ''death''.

In subsection (c), the words ''Secretary concerned, or his designee . . . may . . . a member . . . under this chapter'' are substituted for ''head of the department concerned, or by such subordinate as he may designate . . . are authorized to . . . any person . . . under provisions of this Act''. The words ''a member'' are substituted for ''any person''. The words ''captured, beleaguered, or besieged by a hostile force'' are substituted for ''in the hands of a hostile force'' on authority of 50 App. U.S.C. 1014.

In subsection (d), the words ''Secretary concerned, or his designee'' are substituted for ''head of the department concerned, or such subordinate as he may designate''. The words ''under this chapter'' are substituted for ''authorized to be made by this Act''.

In subsection (e), the words ''a member . . . allotment paid under this chapter'' are substituted for ''any person . . . allotments paid pursuant to this Act''. The words ''the member if the Secretary concerned, or his designee . . . the payment . . . the member'' are substituted for ''such person's . . . in any case in which . . . the head of the department concerned, or such subordinate as he may designate . . . such person''.

In subsection (f), the words ''may not be collected'' are substituted for ''shall not be subject to collection'' in two places. The word ''member'' is substituted for ''person''.

In subsection (g), the words ''Secretary concerned, or his designee,'' are substituted for ''head of the department concerned, or such subordinate as he may designated,''.

In subsection (h), the first sentence is substituted for 50 App. U.S.C. 1009(b) (1st 33 words, as applicable to § 1009). The words ''Secretary concerned'' are substituted for ''head of the department concerned.'' The words ''or his designee'' are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter. The words ''departments and agencies of the United States'' are substituted for ''departments of the Government'' in view of the definition of ''department'' in 50 App. U.S.C. 1001(b). The words ''This subsection does not entitle'' are substituted for ''*Provided*, That nothing in this section shall be construed as conferring . . . any right''.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106, § 569(c)(4)(A), inserted concluding provisions.

Subsec. (b). Pub. L. 104–106, § 569(c)(4)(B), inserted '', in a case to which section 555 of this title applies,'' after ''When the Secretary concerned''.

Subsec. (h). Pub. L. 104–106, § 569(c)(4)(C), substituted ''determining pay'' for ''determining status'' and inserted ''in a case to which section 555 of this title applies'' after ''designee, under this section''.

## § 557. Settlement of accounts

(a) The Secretary concerned, or his designee, may settle the account of—

(1) a member of a uniformed service for whose account payments have been made under sections 552, 553, and 555 of this title; and

(2) a survivor of a casualty to a ship, station, or military installation which results in the loss or destruction of disbursing records.

That settlement is conclusive on the accounting officers of the United States in settling the accounts of disbursing officers.

(b) Payment or settlement of an account made pursuant to a report, determination, or finding of death may not be recovered or reopened because of a later report or determination which fixes a date of death. However, an account shall be reopened and settled on the basis of a date of death so fixed which is later than that used as a basis for earlier settlements.

(c) In the settlement of his accounts, a disbursing officer is entitled, if there is no fraud or criminality by him, to credit for an erroneous payment or overpayment he made in carrying

out this chapter, except section 558 of this title. Unless there is fraud or criminality by him, recovery may not be made from a civilian officer or employee or a member of a uniformed service who authorizes a payment under this chapter, except section 558 of this title.

(Added Pub. L. 89–554, § 5(b), Sept. 6, 1966, 80 Stat. 630; amended Pub. L. 99–145, title XIII, § 1303(b)(11), Nov. 8, 1985, 99 Stat. 741.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 557(a) ..... | 50 App. 1011. | Mar. 7, 1942, ch. 166, § 11, 56 Stat. 146. |
| 557(b) ..... | 50 App. 1009(a) (5th sentence). | Mar. 7, 1942, ch. 166, § 9(a) (5th and last sentences); added July 1, 1944, ch. 371, § 5, 58 Stat. 680; Aug. 29, 1957, Pub. L. 85–217, § 1(c), 71 Stat. 492. |
| 557(c) ..... | 50 App. 1009(a) (last sentence). | |

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words ''Secretary concerned, or his designee,'' are substituted for ''head of the department concerned, or such person as he may designate,''. The words ''a member of a uniformed service'' are substituted for ''persons''. The words ''United States'' are substituted for ''Government''.

In subsection (c), the words ''in carrying out this chapter, except section 558'' are substituted for ''in carrying out the provisions of this Act, except sections 13, 16, 17, and 18'', since sections 16 and 17 are scheduled for repeal (see Table II) and section 18 was previously repealed. The words ''under this chapter, except section 558'' are substituted for ''under such provisions'' for the reasons stated in the preceding sentence.

AMENDMENTS

1985—Subsec. (c). Pub. L. 99–145 inserted ''of this title'' after ''558'' in two places.

## § 558. Income tax deferment

Notwithstanding any other provision of law, a Federal income tax return of, or the payment of a Federal income tax by, a member of a uniformed service who, at the time the return or payment would otherwise become due, is in a missing status, does not become due until the earlier of the following dates—

(1) the fifteenth day of the third month in which he ceased (except by reason of death or incompetency) being in a missing status, unless before the end of that fifteenth day he is again in a missing status; or

(2) the fifteenth day of the third month after the month in which an executor, administrator, or conservator of the estate of the taxpayer is appointed.

That due date is prescribed subject to the power of the Secretary of the Treasury or his delegate to extend the time for filing the return or paying the tax, as in other cases, and to assess and collect the tax as provided by sections 6851, 6861, and 6871 of the Internal Revenue Code of 1986 in cases in which the assessment or collection is jeopardized and in cases of bankruptcy or receivership.

(Added Pub. L. 89–554, § 5(b), Sept. 6, 1966, 80 Stat. 631; amended Pub. L. 96–513, title V, § 516(16), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 100–26, § 8(c), Apr. 21, 1987, 101 Stat. 285.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 558 ..... | 50 App. 1013. | Mar. 7, 1942, ch. 166, § 13, 56 Stat. 146; Aug. 8, 1947, ch. 515, § 6, 61 Stat. 918; Aug. 14, 1964, Pub. L. 88–428, § 1(9), 78 Stat. 437. |

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

The words ''in the case of any taxable year beginning after December 31, 1940'' are omitted as unnecessary.

The words ''as defined in section 101(3) and (23) of title 37, United States Code'' are omitted as unnecessary since the revised section is codified in title 37. The words ''in a missing status'' are substituted for ''absent from his duty station under the conditions specified in section 2 of the Act'' to conform to the definition in revised section 551(3) of this chapter and in view of the provisions of revised section 552 establishing the entitlement of a member in a missing status to receive pay and allowances or have them credited to his account. Reference to ''title 26'' is substituted for ''Internal Revenue Code of 1954''.

REFERENCES IN TEXT

Sections 6851, 6861, and 6871 of the Internal Revenue Code of 1986, referred to in text, are classified to sections 6851, 6861, and 6871, respectively, of Title 26, Internal Revenue Code.

AMENDMENTS

1987—Pub. L. 100–26 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'' in last sentence.

1980—Pub. L. 96–513 substituted ''the Internal Revenue Code of 1954'' for ''title 26''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

## § 559. Benefits for members held as captives

(a) In this section:

(1) The term ''captive status'' means a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after August 27, 1986, monetary payment in respect of such period of captivity.

(2) The term ''former captive'' means a person who, as a member of the uniformed services, was held in a captive status.

(b)(1) The Secretary of the Treasury shall establish a savings fund to which the Secretary concerned may allot all or any portion of the pay and allowances of any member of the uniformed services who is in a captive status to the extent that such pay and allowances are not subject to an allotment under section 553 of this title or any other provision of law.

(2) Amounts so allotted shall bear interest at a rate which, for any calendar quarter, shall be

equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be computed quarterly.

(3) Amounts in the savings fund credited to a member shall be considered as pay and allowances for purposes of section 553(c) of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

(4) Any interest accruing under this subsection on—

(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

(B) any amount referred to in section 556(f) of this title shall be deemed to be part of such amount for purposes of such section.

(5) An allotment under this subsection may be made without regard to section 553(c) of this title.

(c)(1) Except as provided in paragraph (3), the President shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act (5 U.S.C. 5569 note), the amount of such payment shall be determined by the President under the provisions of section 5569(d)(2) of title 5.

(3)(A) The President—

(i) may defer such payment in the case of any former captive who during such one-year period is charged with an offense described in clause (ii), until final disposition of such charge; and

(ii) may deny such payment in the case of any former captive who is convicted of a captivity-related offense—

(I) referred to in subsection (b) or (c) of section 8312 of title 5; or

(II) under chapter 47 of title 10 (the Uniform Code of Military Justice) that is punishable by dishonorable discharge, dismissal, or confinement for one year or more.

(B) For the purposes of subparagraph (A), a captivity-related offense is an offense that is—

(i) committed by a person while the person is in a captive status; and

(ii) related to the captive status of the person.

(4) A payment under this subsection is in addition to any other amount provided by law.

(5) Any amount due a person under this subsection shall, after the death of such person, be deemed to be pay and allowances for the purposes of this chapter.

(6) Any payment made under paragraph (1) that is later denied under paragraph (3)(A)(ii) is a claim of the United States Government for purposes of section 3711 of title 31.

(d) A determination by the President under subsection (a)(1) or (c) is final and is not subject to judicial review.

(Added Pub. L. 99–399, title VIII, § 806(a)(1), Aug. 27, 1986, 100 Stat. 884; amended Pub. L. 100–26, § 8(e)(11), Apr. 21, 1987, 101 Stat. 287; Pub. L. 101–510, div. A, title XIV, § 1484(d)(4), (e)(2), Nov. 5, 1990, 104 Stat. 1717; Pub. L. 102–25, title VII, § 702(b)(1)–(4), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title X, § 1054(a)(6), (c)(2), Oct. 23, 1992, 106 Stat. 2502.)

REFERENCES IN TEXT

Section 802 of the Victims of Terrorism Compensation Act, referred to in subsec. (c)(2), is section 802 of Pub. L. 99–399, which is set out as a note under section 5569 of Title 5, Government Organization and Employees.

AMENDMENTS

1992—Subsec. (c)(3)(A)(i). Pub. L. 102–484, § 1054(c)(2), made technical correction to directory language of Pub. L. 102–25, § 702(b)(4). See 1991 Amendment note below.

Pub. L. 102–484, § 1054(a)(6), made amendment identical to amendment by Pub. L. 102–25, § 702(b)(4). See 1991 Amendment note below.

1991—Subsec. (c)(1). Pub. L. 102–25, § 702(b)(2), struck out ''of this subsection'' after ''paragraph (3)''.

Subsec. (c)(3)(A)(i). Pub. L. 102–25, § 702(b)(4), as amended by Pub. L. 102–484, § 1054(c)(2), struck out ''of this subparagraph'' after ''clause (ii)''.

Subsec. (c)(3)(B). Pub. L. 102–25, § 702(b)(3), struck out ''of this paragraph'' after ''subparagraph (A)''.

Subsec. (c)(6). Pub. L. 102–25, § 702(b)(2), struck out ''of this subsection'' after ''paragraph (1)'' and after ''paragraph (3)(A)(ii)''.

Subsec. (d). Pub. L. 102–25, § 702(b)(1), struck out ''of this section'' after ''(c)''.

1990—Subsec. (a)(1). Pub. L. 101–510, § 1484(d)(4), substituted ''August 27, 1986'' for ''the date of the enactment of the Victims of Terrorism Compensation Act''.

Subsec. (c)(2). Pub. L. 101–510, § 1484(e)(2), inserted ''(5 U.S.C. 5569 note)'' after ''Terrorism Compensation Act''.

1987—Subsec. (a). Pub. L. 100–26 substituted ''In this section:'' for ''In this section—'', inserted ''The term'' at beginning of pars. (1) and (2), and substituted period for ''; and'' at end of par. (1).

EFFECTIVE DATE; PAYMENTS; INTEREST

Section 806(a)(3) of Pub. L. 99–399 provided that:

''(A)(i) Except as provided in clause (ii), section 559 of title 37, United States Code, as added by paragraph (1), shall apply to any person whose captive status begins after January 21, 1981.

''(ii)(I) Subsection (c) of such section shall apply to any person whose captive status begins on or after November 4, 1979.

''(II) In the case of any person whose status as a captive terminated before the date of the enactment of this Act [Aug. 27, 1986], the President shall make a payment under paragraph (1) of such subsection before the end of the one-year period beginning on such date.

''(B) Amounts may be allotted to a savings fund established under such section from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

''(C) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.''

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 3 of Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, set out as a note under section 5569 of Title 5, Government Organization and Employees.

RECALCULATION OF PREVIOUS PAYMENTS

Pub. L. 110–181, div. A, title VI, § 675(b), Jan. 28, 2008, 122 Stat. 187, provided that: ''In the case of any pay-

ment of back pay made to or for a person under section 667 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Pub. L. 106–398, §1 [[div. A], title VI, §667], set out below] before the date of the enactment of this Act [Jan. 28, 2008], the Secretary of the Navy shall—

''(1) recalculate the amount of back pay to which the person is entitled by reason of the amendment made by subsection (a) [amending Pub. L. 106–398, §1 [[div. A], title VI, §667], set out below]; and

''(2) if the amount of back pay, as so recalculated, exceeds the amount of back pay so paid, pay the person, or the surviving spouse of the person, an amount equal to the excess.''

BACK PAY FOR MEMBERS OF THE NAVY AND MARINE CORPS SELECTED FOR PROMOTION WHILE INTERNED AS PRISONERS OF WAR DURING WORLD WAR II

Pub. L. 106–398, §1 [[div. A], title VI, §667], Oct. 30, 2000, 114 Stat. 1654, 1654A–169, as amended by Pub. L. 110–181, div. A, title VI, §675(a), Jan. 28, 2008, 122 Stat. 186, provided that:

''(a) ENTITLEMENT OF FORMER PRISONERS OF WAR.—Upon receipt of a claim made in accordance with this section, the Secretary of the Navy shall pay, from any appropriation currently available to the Secretary, back pay to any person who, by reason of being interned as a prisoner of war while serving as a member of the Navy or the Marine Corps during World War II, was not available to accept a promotion for which the person had been selected.

''(b) PAYMENT TO SURVIVING SPOUSE OF DECEASED FORMER MEMBER.—In the case of a person described in subsection (a) who is deceased, the back pay for that person under this section shall be paid to the living surviving spouse of that person, if any. If there is no living surviving spouse, no claim may be paid under this section with respect to that person.

''(c) AMOUNT OF BACK PAY.—(1) The amount of back pay payable to or for a person described in subsection (a) is the amount equal to the difference between—

''(A) the total amount of basic pay that would have been paid to that person for service in the Navy or the Marine Corps for the back-pay computation period if the person had been promoted to the grade to which selected to be promoted; and

''(B) the total amount of basic pay that was actually paid to or for that person for such service for the back-pay computation period.

''(2) For purposes of paragraph (1), the back-pay computation period for a person covered by subsection (a) is the period—

''(A) beginning on the date (as determined by the Secretary of the Navy) as of when that person's promotion would have been effective for pay purposes but for the person's internment as a prisoner of war; and

''(B) ending on the earliest of—

''(i) the date of the person's discharge or release from active duty;

''(ii) the date on which the person's promotion to that grade in fact became effective for pay purposes; and

''(iii) the end of World War II.

''(3) The amount determined for a person under paragraph (1) shall be increased to reflect increases in cost of living since the basic pay referred to in paragraph (1)(B) was paid to or for that person, calculated on the basis of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

''(d) TIME LIMITATIONS.—(1) To be eligible for a payment under this section, a claimant must file a claim for such payment with the Secretary of the Navy within two years after the effective date of the regulations prescribed to carry out this section.

''(2) Not later than 18 months after receiving a claim for payment under this section, the Secretary shall determine the eligibility of the claimant for payment of the claim. Subject to subsection (f), if the Secretary determines that the claimant is eligible for the payment, the Secretary shall promptly pay the claim.

''(e) REGULATIONS.—Not later than six months after the date of the enactment of this Act [Oct. 30, 2000], the Secretary of the Navy shall prescribe regulations to carry out this section. Such regulations shall include procedures by which persons may submit claims for payment under this section.

''(f) LIMITATION ON DISBURSEMENT.—(1) Notwithstanding any power of attorney, assignment of interest, contract, or other agreement, the actual disbursement of a payment of back pay under this section may be made only to a person who is eligible for the payment under subsection (a) or (b).

''(2) In the case of a claim approved for payment but not disbursed as a result of paragraph (1), the Secretary shall hold the funds in trust for the person in an interest bearing account until such time as the person makes an election under such paragraph.

''(g) ATTORNEY FEES.—Notwithstanding any contract, the representative of a person may not receive, for services rendered in connection with the claim of, or with respect to, a person under this section, more than 10 percent of the amount of a payment made under this section on that claim.

''(h) OUTREACH.—The Secretary of the Navy shall take such actions as are necessary to ensure that the benefits and eligibility for benefits under this section are widely publicized by means designed to provide actual notice of the availability of the benefits in a timely manner to the maximum number of eligible persons practicable.

''(i) DEFINITION.—In this section, the term 'World War II' has the meaning given that term in section 101(8) of title 38, United States Code.''

PAYMENT TO INDIVIDUALS HELD IN CAPTIVE STATUS BETWEEN NOVEMBER 4, 1979, AND JANUARY 21, 1981

For payment for individuals in the uniformed services referred to in subsec. (c) of this section held in captive status between Nov. 4, 1979, and Jan. 21, 1981, see section 802 of Pub. L. 99–399, set out as a note under section 5569 of Title 5, Government Organization and Employees.

## CHAPTER 11—PAYMENTS TO MENTALLY INCOMPETENT PERSONS

Sec.
601. Applicability.
602. Payments: designation of person to receive amounts due.
603. Regulations.
604. Determination of Secretary final.

AMENDMENTS

1990—Pub. L. 101–510, div. A, title XIV, §1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

### §601. Applicability

This chapter applies to—

(1) members of a uniformed service who are on active duty (other than for training) or who are on a retired list of that service; and

(2) members of the Fleet Reserve or Fleet Marine Corps Reserve.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 483.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 601 ..... | 37:351. | June 21, 1950, ch. 342, §1, 64 Stat. 249. |

The words ''on active duty (other than for training)'' are substituted for the words ''on the active . . . list'' to conform to longstanding administrative construction, and because there is no ''active list'' in the case of many of the uniformed services named, but only for certain regular component of those services, e.g., the ''Regular Army'' and the ''Regular Air Force''. The words ''a retired list of that service'' are substituted for the words ''retired list'', since there is more than one retired list for many of the services named. (See sections 1376, 3966, and 8966 of title 10, for example.) The words ''members of the Reserve components of the respective services entitled to Federal pay either on the active or any retired list of said services'' are omitted as covered by clause (1), since members of the reserve components are members of the uniformed services concerned. The word ''transferred'' is omitted as surplusage.

### § 602. Payments: designation of person to receive amounts due

(a) Active duty pay and allowances, amounts due for accrued or accumulated leave, or retired or retainer pay, that are otherwise payable to a member to whom this chapter applies and who, in the opinion of a board of medical officers or physicians, is mentally incapable of managing his affairs, may be paid for that member's use or benefit to any person designated by the Secretary concerned, or by any officer to whom he delegates his authority under this section, without the appointment in judicial proceedings of a committee, guardian, or other legal representative.

(b) The board shall consist of at least three qualified medical officers or physicians, one of whom is specially qualified in the treatment of mental disorders, appointed from available medical officers or physicians under his jurisdiction by the head of whichever of the following is providing medical treatment for the member, or by a person designated by that head—

(1) Department of the Army;

(2) Department of the Navy;

(3) Department of the Air Force;

(4) Department of Health and Human Services; or

(5) Department of Veterans Affairs.

If the hospitalization or medical care of the member is not provided by the United States, the board shall be appointed by the Secretary of the department having jurisdiction of the member.

(c) A payment made to a person who is designated under this section discharges the obligation of the United States as to the amount paid.

(d) A person serving in a legal, medical, fiduciary, or other capacity, may not demand or accept a fee, commission, or other charge for any service performed under this chapter.

(e) This section does not apply in any case in which a legal committee, guardian, or other representative has been appointed by a court of competent jurisdiction, except as to payments made before the paying agency of the department concerned receives notice of that appointment.

(f) A person who is designated to receive payments under this section shall furnish satisfactory assurance that the amounts received by him will be applied to the use and benefit of the incompetent member, and, where the payments may reasonably be expected to be more than $1,000, shall provide a suitable bond to be paid for out of amounts due the incompetent member.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 483; Pub. L. 96–513, title V, § 516(17), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 101–189, div. A, title XVI, § 1621(b)(1), Nov. 29, 1989, 103 Stat. 1604.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 602(a) ..... | 37:352 (1st sentence, less 31 words before provisos and less provisos). | June 21, 1950, ch. 342, §§ 2, 3 (less 1st 28 words), 64 Stat. 249; Aug. 7, 1959, Pub. L. 86–145, § 1, 73 Stat. 297. |
| 602(b) ..... | 37:352 (last proviso of 1st sentence, 2d sentence, and last sentence). | |
| 602(c) ..... | 37:352 (31 words before provisos of 1st sentence). | |
| 602(d) ..... | 37:352 (1st proviso of 1st sentence). | |
| 602(e) ..... | 37:352 (2d proviso of 1st sentence). | |
| 602(f) ..... | 37:353 (less 1st 28 words). | |

In subsection (a), the words ''or persons'' and ''or officers'' are omitted, since, under section 1 of title 1, ''words importing the singular include and apply to several persons, parties, or things''. The words ''to whom he delegates his authority under this section'' are substituted for the words ''as the respective Secretaries may designate for such purposes'' to obviate confusion between persons ''designated to receive payments and those who perform the Secretary's functions under the section. The words ''the necessity of'' are omitted as surplusage.

In subsection (c), the words ''or persons'' are omitted for the reasons given in the preceding paragraph. The words ''discharges the obligation'' are substituted for the words ''shall constitute a complete discharge''.

In subsection (d), the words ''under the authority of'' are omitted as surplusage.

In subsection (e), the words ''have been'' and ''including a requirement'' are omitted as surplusage. The words ''or persons'' are omitted for the reason stated in the explanation under subsection (a), above.

AMENDMENTS

1989—Subsec. (b)(5). Pub. L. 101–189 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1980—Subsec. (b)(4). Pub. L. 96–513 substituted ''Department of Health and Human Services'' for ''Department of Health, Education, and Welfare''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

### § 603. Regulations

The Secretary concerned and the Secretary of Veterans Affairs shall prescribe regulations necessary to carry out this chapter.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 101–189, div. A, title XVI, § 1621(b)(2), Nov. 29, 1989, 103 Stat. 1604.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 603 ..... | 37:353 (1st 28 words). | June 21, 1950, ch. 342, § 3 (1st 28 words), 64 Stat. 249; Aug. 7, 1959, Pub. L. 86–145, § 2, 73 Stat. 297. |

The words ''effectively'' and ''provisions of'' are omitted as surplusage.

AMENDMENTS

1989—Pub. L. 101–189 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

### § 604. Determination of Secretary final

The determination as to the person authorized to receive a payment under section 602 of this title is final and is not subject to review by an official of the United States or a court.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 89–718, § 66, Nov. 2, 1966, 80 Stat. 1123.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 604 ..... | 37:354. | June 21, 1950, ch. 342, § 4, 64 Stat. 250. |

The words ''or persons'' are omitted for the reasons stated in the revision note for section 602(a) of this revised title. The words ''made by the respective secretaries, or by their duly designated subordinates'' and the words ''and conclusive'' are omitted as surplusage.

AMENDMENTS

1966—Pub. L. 89–718 struck out ''the'' before ''Secretary'' in section catchline.

## CHAPTER 13—ALLOTMENTS AND ASSIGNMENTS OF PAY

Sec.
701. Members of the Army, Navy, Air Force, and Marine Corps; contract surgeons.
[702. Repealed.]
703. Allotments: members of Coast Guard.
704. Allotments: officers of Public Health Service.
[705. Repealed.]
706. Allotments: commissioned officers of the National Oceanic and Atmospheric Administration.
707. Allotments: members of the National Guard.

AMENDMENTS

1990—Pub. L. 101–510, div. A, title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

1985—Pub. L. 99–145, title VI, § 683(a)(3), (b)(2), Nov. 8, 1985, 99 Stat. 665, 666, included reference to the Navy and Marine Corps in item 701, and struck out item 702 ''Allotments: officers of Navy or Marine Corps'' and item 705 ''Assignments: enlisted members of naval service''.

1980—Pub. L. 96–513, title V, § 516(18)(C), Dec. 12, 1980, 94 Stat. 2939, substituted ''Allotments: commissioned officers of the National Oceanic and Atmospheric Administration'' for ''Commissioned officers of Environmental Science Services Administration'' in item 706.

1974—Pub. L. 93–289, § 11(c), May 24, 1974, 88 Stat. 173, added item 707.

1966—Pub. L. 89–718, § 49(a)(3), Nov. 2, 1966, 80 Stat. 1121, substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey'' in item 706.

### § 701. Members of the Army, Navy, Air Force, and Marine Corps; contract surgeons

(a) Under regulations prescribed by the Secretary of the military department concerned, a commissioned officer of the Army, Navy, Air Force, or Marine Corps may transfer or assign his pay account, when due and payable.

(b) A contract surgeon, or contract dental surgeon, of the Army, Navy, or Air Force, on duty in Alaska, Hawaii, the Philippine Islands, or Puerto Rico, may transfer or assign his pay account, when due and payable, under the regulations prescribed under subsection (a).

(c) An enlisted member of the Army, Navy, Air Force, or Marine Corps may not assign his pay, and if he does so, the assignment is void.

(d) Under regulations prescribed by the Secretary of Defense, a member of the Army, Navy, Air Force, or Marine Corps and a contract surgeon of the Army, Navy, or Air Force may make allotments from the pay of the member or surgeon for the purpose of supporting relatives or for any other purpose that the Secretary considers proper. Such allotments may include a maximum of six allotments considered to be discretionary under such regulations. For a member or former member entitled to retired or retainer pay, a maximum of six discretionary allotments authorized during active military service may be continued into retired status, and new discretionary allotments may be authorized so long as the total number of discretionary allotments does not exceed six.

(e) If an allotment made under subsection (d) is paid to the allottee before the disbursing officer receives a notice of discontinuance from the officer required by regulation to furnish the notice, the amount of the allotment shall be credited to the disbursing officer. If an allotment is erroneously paid because the officer required by regulation to so report failed to report the death of the allotter or any other fact that makes the allotment not payable, the amount of the payment not recovered from the allottee shall, if practicable, be collected by the Secretary concerned from the officer who failed to make the report.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 89–718, § 67, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 99–145, title VI, § 683(a)(1), (2), Nov. 8, 1985, 99 Stat. 665; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–201, div. A, title VI, § 651(a), Sept. 23, 1996, 110 Stat. 2582.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 701(a) ..... | 10:3689(a). | [None.] |
| | 10:8689(a). | [None.] |
| 701(b) ..... | 10:3689(b) | [None.] |
| | 10:8689(b). | [None.] |
| 701(c) ..... | 10:3689(c). | [None.] |
| | 10:8689(c). | [None.] |
| 701(d) ..... | 10:3689(d). | [None.] |
| | 10:8689(d). | [None.] |

AMENDMENTS

1996—Subsecs. (d), (e). Pub. L. 104–201 added subsecs. (d) and (e) and struck out former subsec. (d) which read as follows: ''The Secretary of the military department concerned, may allow a—

''(1) member of the Army, Navy, Air Force, or Marine Corps; or

''(2) contract surgeon of the Army, Navy, or Air Force;

to make allotments from his pay for the support of his relatives, or for any other purpose that the Secretary concerned considers proper. If an allotment made under this subsection is paid to the allottee before the disbursing officer receives a notice of discontinuance from the officer required by regulation to furnish the notice, the amount of the allotment shall be credited to the disbursing officer. If an allotment is erroneously paid because the officer required by regulation to so report failed to report the death of the allotter or any other fact that makes the allotment not payable, the amount of the payment not recovered from the allottee shall, if practicable, be collected by the Secretary concerned, from the officer who failed to make the report.''

1991—Subsec. (b). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

1985—Pub. L. 99–145, § 683(a)(2), inserted reference to Navy and Marine Corps in section catchline.

Subsec. (a). Pub. L. 99–145, § 683(a)(1)(A), (C), substituted ''Secretary of the military department concerned'' for ''Secretary of the Army or the Secretary of the Air Force, as the case may be'' and ''commissioned officer of the Army, Navy, Air Force, or Marine Corps'' for ''commissioned officer of the Army or the Air Force''.

Subsec. (b). Pub. L. 99–145, § 683(a)(1)(B), inserted reference to Navy.

Subsec. (c). Pub. L. 99–145, § 683(a)(1)(A), inserted reference to Navy and Marine Corps.

Subsec. (d). Pub. L. 99–145, § 683(a)(1)(C), substituted ''Secretary of the military department concerned'' for ''Secretary of the Army or the Secretary of the Air Force, as the case may be''.

Subsec. (d)(1). Pub. L. 99–145, § 683(a)(1)(A), inserted reference to Navy and Marine Corps.

Subsec. (d)(2). Pub. L. 99–145, § 683(a)(1)(B), inserted reference to Navy.

1966—Subsec. (d). Pub. L. 89–718 substituted ''Secretary concerned'' for ''Chief of Finance (in cases involving the Army) or by the Secretary of the Air Force'' in provision for collection erroneously paid allotments.

REGULATIONS

Section 651(b) of Pub. L. 104–201 provided that: ''The Secretaries of the military departments shall prescribe regulations under subsection (d) of section 701 of title 37, United States Code, as added by subsection (a), not later than October 1, 1997.''

### [§ 702. Repealed. Pub. L. 99–145, title VI, § 683(b)(1), Nov. 8, 1985, 99 Stat. 665]

Section, Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 484, authorized allotments by officers of Navy and Marine Corps for support of family or relatives, for personal savings, and for other purposes. See section 701 of this title.

### § 703. Allotments: members of Coast Guard

Members of the Coast Guard may, under regulations prescribed by the Secretary of Homeland Security, make allotments from their pay and allowances.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 90–623, § 3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 703 ..... | 14:464. | [None.] |

The words ''members of the Coast Guard'' are substituted for the words ''officers and enlisted men'', since together they compose the entire membership.

AMENDMENTS

2002—Pub. L. 107–296 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

1968—Pub. L. 90–623 substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as an Effective Date of 1968 Amendment note under section 5334 of Title 5, Government Organization and Employees.

### § 704. Allotments: officers of Public Health Service

Commissioned officers of the Public Health Service who are on active duty may, under regulations prescribed by the President, make allotments from their pay.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 485.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 704 ..... | 42:210(b) (1st sentence). | July 1, 1944, ch. 373, § 209(c) (1st sentence), 58 Stat. 686; redesignated as section 208, Feb. 28, 1948, ch. 83, § 5(a), 62 Stat. 40; redesignated as subsection (b), Oct. 12, 1949, ch. 681, § 521(b) (as applicable to section 208(b) (1st sentence) of the Act of July 1, 1944), 63 Stat. 834; restated Aug. 9, 1950, ch. 654, § 1, 64 Stat. 426; Apr. 8, 1960, Pub. L. 86–415, § 5(b) (1st sentence), 74 Stat. 34. |

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Health, Education, and Welfare, see section 3 of Ex. Ord. No. 11140, Jan. 30, 1964 29 F.R. 1637, set out as a note under section 202 of Title 42, The Public Health and Welfare. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

### [§ 705. Repealed. Pub. L. 99–145, title VI, § 683(b)(1), Nov. 8, 1985, 99 Stat. 665]

Section, Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 485, related to assignments of pay due enlisted members of naval service. See section 701 of this title.

### § 706. Allotments: commissioned officers of the National Oceanic and Atmospheric Administration

Under regulations prescribed by the Secretary of Commerce, commissioned officers of the National Oceanic and Atmospheric Administration may make allotments or assignments of their pay.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 485; Pub. L. 89–718, § 49(a)(1), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 96–513, title V, § 516(18)(A), (B), Dec. 12, 1980, 94 Stat. 2939.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 706 ..... | 33:862. | Mar. 4, 1907, ch. 2918, § 1 (10th par. under ''Coast and Geodetic Survey''); restated June 21, 1955, ch. 172, § 1; restated Sept. 26, 1961, Pub. L. 87–304, 75 Stat. 665. |

AMENDMENTS

1980—Pub. L. 96–513 substituted ''Allotments: commissioned officers of the National Oceanic and Atmospheric Administration'' for ''Commissioned officers of Environmental Science Services Administration'' in section catchline and ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration'' in text.

1966—Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey'' in section catchline and text.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

### § 707. Allotments: members of the National Guard

(a) The Secretary of the Army or the Secretary of the Air Force, as the case may be, may allow a member of the National Guard who is not on active duty to make allotments from his pay under sections 204 and 206 of this title for the payment of premiums under a group life insurance program sponsored by the military department of the State in which such member holds his National Guard membership or by the National Guard association of such State if the State or association concerned has agreed in writing to reimburse the United States for all costs incurred by the United States in providing for such allotments. The amount of such costs and procedures for reimbursements shall be determined by the Secretary of Defense and his determination shall be conclusive. All amounts of reimbursements for such costs received by the United States from a State or an association shall be credited to the appropriations or funds against which charges have been made for such costs.

(b) The United States is not liable for loss or damage suffered by a person as a result of an error made by an officer or employee of the United States in carrying out the allotment program under subsection (a).

(Added Pub. L. 93–289, § 11(a), May 24, 1974, 88 Stat. 172; amended Pub. L. 96–513, title V, § 516(19), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 97–295, § 3(5), Oct. 12, 1982, 96 Stat. 1304; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

HISTORICAL AND REVISION NOTES
1982 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 707(b) ..... | 37:707 (note). | May 24, 1974, Pub. L. 93–289, § 11(b), 88 Stat. 173. |

In subsection (b), the words ''is not'' are substituted for ''shall not be'' for consistency.

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

1982—Pub. L. 97–295 designated existing provisions as subsec. (a) and added subsec. (b).

1980—Pub. L. 96–513 struck out ''(a)'' before ''The Secretary''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

LIABILITY OF UNITED STATES FOR LOSSES OR DAMAGES

Section 11(b) of Pub. L. 93–289, which provided that the United States shall not be liable for any losses or damages suffered by any person as the result of any error made by any officer or employee of the United States in administering the allotment program authorized under subsec. (a) of this section, was repealed and reenacted as subsec. (b) of this section by Pub. L. 97–295, §§ 3(5), 6(b), Oct. 12, 1982, 96 Stat. 1304, 1314.

## CHAPTER 15—PROHIBITIONS AND PENALTIES

Sec.
[801. Repealed.]
802. Forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs.
803. Commissioned officers of Army or Air Force: forfeiture of pay when dropped from rolls.
[804, 805. Repealed.]

AMENDMENTS

1996—Pub. L. 104–106, div. A, title XI, § 1122(c)(2), Feb. 10, 1996, 110 Stat. 463, struck out item 804 ''Enlisted members of Army or Air Force: pay and allowances not to accrue during suspended sentence of dishonorable discharge''.

1994—Pub. L. 103–355, title VI, § 6001(a)(2), Oct. 13, 1994, 108 Stat. 3362, struck out item 801 ''Restriction on payment to certain officers''.

1990—Pub. L. 101–510, div. A, title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

1985—Pub. L. 99–145, title VI, § 683(b)(3), Nov. 8, 1985, 99 Stat. 666, struck out item 805 ''Sale of pay by members of naval service to be discouraged by commanding officer''.

### [§ 801. Repealed. Pub. L. 103–355, title VI, § 6001(a)(1), Oct. 13, 1994, 108 Stat. 3362]

Section, Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 485; Pub. L. 89–718, §§ 49(a)(1), 68, Nov. 2, 1966, 80 Stat. 1121, 1123; Pub. L. 96–513, title V, § 516(20), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 101–194, title V, § 505(a), Nov. 30, 1989, 103 Stat. 1756; Pub. L. 101–510, div. A, title XIV, § 1484(c)(2), Nov. 5, 1990, 104 Stat. 1716, prohibited payment from any appropriation to officer, for period of three years after name of officer was placed on retired list of Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, Regular Coast Guard, National Oceanic and Atmospheric Administration, or Public Health

Service, who was engaged for himself or others in selling, or contracting or negotiating to sell, supplies or war materials to agency of Department of Defense, Coast Guard, National Oceanic and Atmospheric Administration, or Public Health Service.

### § 802. Forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs

A member of the Army, Navy, Air Force, or Marine Corps, on active duty who is absent from his regular duties for a continuous period of more than one day because of disease that is directly caused by and immediately follows his intemperate use of alcoholic liquor or habit-forming drugs is not entitled to pay for the period of that absence. However, a member whose pay is forfeited for more than one month is entitled to $5 for personal expenses for each full month that his pay is forfeited. Determinations of periods and causes of absence under this section shall be made as prescribed by the Secretary concerned, and are final.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 485.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 802 ..... | 10:3632.<br>10:6111.<br>10:8632. | [None.]<br>[None.]<br>[None.] |

The words ''Navy . . . or Marine Corps'' are substituted for the words ''naval service'', in section 6111 of title 10, to conform to the definition of that term in section 5001(a)(3) of title 10. The words ''and conclusive'' are omitted as surplusage.

### § 803. Commissioned officers of Army or Air Force: forfeiture of pay when dropped from rolls

A commissioned officer of the Army or the Air Force who is dropped from the rolls under section 1161(b) of title 10 for absence without authority for three months forfeits all pay due or to become due.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 486.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 803 ..... | 10:3633.<br>10:8633. | [None.]<br>[None.] |

### [§ 804. Repealed. Pub. L. 104–106, div. A, title XI, § 1122(c)(1), Feb. 10, 1996, 110 Stat. 463]

Section, Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 486, provided that pay and allowances do not accrue to enlisted member of Army or Air Force who is in confinement under sentence of dishonorable discharge, while execution of sentence to discharge is suspended.

### [§ 805. Repealed. Pub. L. 99–145, title VI, § 683(b)(1), Nov. 8, 1985, 99 Stat. 665]

Section, Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 486, required commanding officer to discourage the sale of pay by members of naval service. See section 701 of this title.

## CHAPTER 17—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.
901. Wartime pay of officer of armed force exercising command higher than his grade.
902. Pay of crews of wrecked or lost naval vessels.
903. Retired members recalled to active duty; former members.
[904. Repealed.]
905. Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances.
906. Extension of enlistment: effect on pay and allowances.
907. Enlisted members and warrant officers appointed as officers: pay and allowances stabilized.
908. Employment of reserves and retired members by foreign governments.
909. Special and incentive pay: payment at unreduced rates during suspension of personnel laws.
910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service.

AMENDMENTS

2006—Pub. L. 109–163, div. A, title VI, § 614(b), Jan. 6, 2006, 119 Stat. 3293, added item 910.

2001—Pub. L. 107–107, div. A, title VI, § 623(a)(2), Dec. 28, 2001, 115 Stat. 1143, added item 909.

1990—Pub. L. 101–510, div. A, title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

1982—Pub. L. 97–295, § 3(6)(B), Oct. 12, 1982, 96 Stat. 1304, added item 908.

1980—Pub. L. 96–513, title V, § 506(8), Dec. 12, 1980, 94 Stat. 2919, struck out item 904 ''Officers of Navy or Marine Corps promoted under chapter 545 of title 10: effective date of beginning of pay and allowances'' and substituted ''Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances'' for ''Officers of Navy or Marine Corps not covered by section 904 of this title: effective date of beginning of pay and allowances'' in item 905.

Pub. L. 96–343, § 6(a)(2), Sept. 8, 1980, 94 Stat. 1127, substituted ''and warrant officers appointed as officers:'' for ''appointed as officers;'' in item 907.

1970—Pub. L. 91–484, § 1(2), Oct. 21, 1970, 84 Stat. 1084, added item 907.

### § 901. Wartime pay of officer of armed force exercising command higher than his grade

In time of war, an officer of an armed force who is serving with troops operating against an enemy and who exercises, under assignment in orders issued by competent authority, a command above that pertaining to his grade, is entitled to the pay and allowances (not above that of pay grade O–7) appropriate to the command so exercised.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 486.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 901 ..... | 37:235a. | Apr. 26, 1898, ch. 191, § 7 (less last proviso), 30 Stat. 365. |

Applicability of the source law to the Air Force is based on Transfer Order No. 25(zzz), of the Secretary of Defense, dated October 14, 1948. Its applicability, other than to the Army and the Air Force, is based upon an

opinion of the Judge Advocate General of the Navy, JAG 135: DDC; dmt.; 4229, dated July 29, 1960. The words ''(but not above that of pay grade O–7)'' are substituted for section 235a (proviso) of existing title 37.

### §902. Pay of crews of wrecked or lost naval vessels

(a) When the accounts of the disbursing officer of a naval vessel are lost as a result of the destruction of the vessel, his return for the last month may, unless there is official evidence to the contrary, be used in computing later credits to and settling accounts of persons, other than officers, carried on his accounts. If the return for the last month has not been made, the pay accounts may be settled on principles of equity and justice.

(b) When a naval vessel is lost or has not been heard from for so long that her loss may be presumed, the Secretary of the Navy may fix the date of loss of the vessel for the purpose of settling the accounts of persons aboard other than officers.

(c) When the crew of a naval vessel is separated from that vessel because of her wreck, loss, or destruction, the pay and emoluments of those officers and enlisted members that the Secretary considers (because of the sentence of a court-martial or the finding of a court of inquiry, or by other satisfactory evidence) to have done their utmost to save the vessel and, after the wreck, loss, or destruction, to have behaved themselves according to the discipline of the Navy, continue and shall be paid to them until their discharge or death, whichever is earlier.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 486; Pub. L. 104–316, title I, §118, Oct. 19, 1996, 110 Stat. 3836.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 902(a) ..... | 10:6144. | [None.] |
| 902(b) ..... | 10:6145. | [None.] |
| 902(c) ..... | 37:243. | R.S. 1574. |

In subsections (a) and (c), the words ''naval vessel'' are substituted for the words ''any vessel of the United States'', in section 243 of existing title 37, and the words ''vessel in the employ of the United States'', in section 6144 of title 10, for clarity and to conform to subsection (b).

In subsection (c), the word ''continues'' is substituted for the words ''go on''. The words ''whichever is earlier'' are inserted for clarity. The words ''or the findings of a'' are inserted since a court of inquiry cannot impose a sentence.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–316 substituted ''the Secretary of the Navy may'' for ''the General Accounting Office, under the direction of the Secretary of the Navy, may''.

### §903. Retired members recalled to active duty; former members

A retired member or former member of a uniformed service, or a member of the Fleet Reserve or Fleet Marine Corps Reserve, who is serving on active duty is entitled to the pay and allowances to which he is entitled, under this title, for the grade, rank, or rating in which he is serving. In addition, while on active duty, he is entitled to the pay and allowances, while on leave of absence or while sick, of a member of a uniformed service of similar grade, rank, or rating who is entitled to basic pay.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 487.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 903 ..... | 37:314. | Oct. 12, 1949, ch. 681, §514, 63 Stat. 831. |

The word ''rating'' is inserted for clarity. The words ''is entitled to'' are substituted for the words ''shall . . . be entitled to receive and have the same . . . rights''. The last 41 words of section 314 of existing title 37 are omitted, since the sections mentioned therein were repealed by section 53(b) of the Act of August 10, 1956, ch. 1041 (70A Stat. 646). The subject of death benefits and entitlement thereto is now covered by chapter 75 of title 10.

### [§904. Repealed. Pub. L. 96–513, title IV, §403(a), Dec. 12, 1980, 94 Stat. 2904]

Section, Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 487; Pub. L. 90–130, §3(2), Nov. 8, 1967, 81 Stat. 383; Pub. L. 90–623, §3(8), Oct. 22, 1968, 82 Stat. 1315, set forth provisions relating to effective date of beginning of pay and allowances of officers of Navy or Marine Corps promoted under chapter 545 of Title 10, Armed Forces.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, but with authority to prescribe regulations under the amendment by section 403(a) of Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of Title 10, Armed Forces.

### §905. Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances

(a) A reserve officer who is promoted under chapter 1405 of title 10 to a grade above lieutenant (junior grade) in the Navy Reserve or above first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the grade to which promoted for duty performed from the date on which he becomes eligible for promotion to that grade.

(b) A reserve officer who is promoted under section 14308(b) of title 10 to the grade of lieutenant (junior grade) in the Navy Reserve or first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the higher grade for duty performed from the date given him as his date of rank.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 488; Pub. L. 95–377, §9, Sept. 19, 1978, 92 Stat. 721; Pub. L. 96–513, title IV, §403(b), Dec. 12, 1980, 94 Stat. 2904; Pub. L. 103–337, div. A, title XVI, §1676(b)(3), Oct. 5, 1994, 108 Stat. 3019; Pub. L. 109–163, div. A, title V, §515(d)(1)(F), Jan. 6, 2006, 119 Stat. 3236.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 905(a) ..... | 10:6141. | [None.] |
| 905(b) ..... | 10:5907. | [None.] |
| 905(c) ..... | 10:5908(a) (last sentence). | [None.] |

HISTORICAL AND REVISION NOTES—Continued

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 905(d) ..... | 10:5788(c). | [None.] |
| 905(e) ..... | 10:5787b(c). | [None.] |
| 905(f) ..... | 10:5505(c). | [None.] |
| 905(g) ..... | 10:5597(h) (last sentence). | [None.] |
| | 10:5597(i) (last 21 words). | [None.] |
| 905(h) ..... | 10:5787(g) (last 21 words). | [None.] |
| | 10:5787(h) (last sentence). | [None.] |

AMENDMENTS

2006—Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve'' in two places.

1994—Subsec. (a). Pub. L. 103–337, § 1676(b)(3)(A), substituted ''chapter 1405'' for ''chapter 549''.

Subsec. (b). Pub. L. 103–337, § 1676(b)(3)(B), substituted ''section 14308(b)'' for ''section 5908''.

1980—Pub. L. 96–513 substituted ''Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances'' for ''Officers of Navy or Marine Corps not covered by section 904 of this title: effective date of beginning of pay and allowances'' in section catchline, and generally revised and restructured section, and as part of such restructuring struck out former subsec. (a), redesignated former subsecs. (b) and (c) as subsecs. (a) and (b), respectively, and, in subsec. (a) as so redesignated, struck out second sentence which related to establishment of an officer's professional and moral qualifications, and struck out former subsecs. (d) to (h).

1978—Subsec. (h). Pub. L. 95–377 inserted reference to section 5787d.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513, and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of Title 10, Armed Forces.

## § 906. Extension of enlistment: effect on pay and allowances

A member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, who extends his enlistment under section 509 of title 10 is entitled to the same pay and allowances as though he had reenlisted. For the purposes of determining entitlement to reenlistment bonus or to travel and transportation allowances upon discharge, all such extensions of an enlistment are considered one continuous extension.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 489; Pub. L. 90–235, § 2(c), Jan. 2, 1968, 81 Stat. 757.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 906(a) ..... | 10:3263(b). | [None.] |
| | 10:8263(b). | [None.] |
| 906(b) ..... | 10:5539(b). | [None.] |

In subsection (a), the words ''who extends his enlistment'' are substituted for the words ''While serving under an enlistment extended''. The words ''same pay and allowances as though he had reenlisted'' are substituted for the last 31 words of section 3263(b) of title 10 and the last 31 words of section 8263(b) of title 10.

AMENDMENTS

1968—Pub. L. 90–235 struck out provisions formerly set out as subsec. (a) which provided that a member of the Army or Air Force who had extended his enlistment was entitled to the same pay as though he had reenlisted, redesignated as entire section provisions formerly set out as subsec. (b) and substituted ''Army, Navy, Air Force, Marine Corps, or Coast Guard'' for ''Regular Navy or the Regular Marine Corps'' and ''section 509 of title 10'' for ''section 5539 of title 10''.

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), 551(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.

## § 907. Enlisted members and warrant officers appointed as officers: pay and allowances stabilized

(a) An enlisted member who accepts an appointment as an officer shall, for service as an officer, be paid the greater of—

(1) the pay and allowances to which the officer is entitled as an officer; or

(2) the pay and allowances to which the officer would be entitled if the officer were in the last enlisted grade the officer held before the appointment as an officer.

(b) A warrant officer who accepts an appointment as a commissioned officer in a pay grade above W–4 shall, for service as such a commissioned officer, be paid the greater of—

(1) the pay and allowances to which the officer is entitled as such a commissioned officer;

(2) the pay and allowances to which the officer would be entitled if the officer were in the last warrant officer grade the officer held before the appointment as such a commissioned officer; or

(3) in the case of an officer who was formerly an enlisted member, the pay and allowances to which the officer would be entitled if the officer were in the last enlisted grade the officer held before the appointment as an officer.

(c) For the purposes of this section—

(1) the pay and allowances of a grade formerly held by an officer include—

(A) subject to subsection (d), special and incentive pays under chapter 5 of this title; and

(B) subject to subsection (e), allowances under chapter 7 of this title; and

(2) the rates of pay and allowances of a grade which an officer formerly held are those to which the officer would have been entitled had the officer remained in that grade and continued to receive the increases in pay and allowances authorized for that grade, as otherwise provided in this title.

(d)(1) In determining the amount of the pay and allowances of a grade formerly held by an officer, the following special and incentive pays may be considered only so long as the officer continues to perform the duty that creates the entitlement to, or eligibility for, that pay and would otherwise be eligible to receive that pay in the former grade:

(A) Incentive pay for hazardous duty under section 301 of this title.

(B) Submarine duty incentive pay under section 301c of this title.

(C) Special pay for diving duty under section 304 of this title.

(D) Hardship duty pay under section 305 of this title.

(E) Career sea pay under section 305a of this title.

(F) Special pay for service as a member of a Weapons of Mass Destruction Civil Support Team under section 305b of this title.

(G) Assignment incentive pay under section 307a of this title.

(H) Special pay for duty subject to hostile fire or imminent danger under section 310 of this title.

(I) Special pay or bonus for an extension of duty at a designated overseas location under section 314 of this title.

(J) Foreign language proficiency pay under section 316 of this title.

(K) Critical skill retention bonus under section 323[1] of this title.

(2) The following special and incentive pays are dependent on a member being in an enlisted status and may not be considered in determining the amount of the pay and allowances of a grade formerly held by an officer:

(A) Special duty assignment pay under section 307 of this title.

(B) Reenlistment bonus under section 308 of this title.

(C) Enlistment bonus under section 309 of this title.

(D) Career enlisted flyer incentive pay under section 320 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.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 323 of this title, referred to in subsec. (d)(1)(K), was renumbered section 355 of this title by Pub. L. 110–181, div. A, title VI, §661(c)(1), Jan. 28, 2008, 122 Stat. 178.

AMENDMENTS

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.

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

Section 6(c) of Pub. L. 96–343 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. Employment of reserves and retired members by foreign governments

(a) CONGRESSIONAL CONSENT.—Subject to subsection (b), Congress consents to the following persons accepting civil employment (and compensation for that employment) 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.

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

(b) APPROVAL REQUIRED.—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) 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.)

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.

AMENDMENTS

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)''.

## § 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.)

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 of this title is available.

(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, 2010, 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.)

AMENDMENTS

Subsec. (g). Pub. L. 111–84 substituted ''December 31, 2010'' for ''December 31, 2009''.

2008—Subsec. (a). Pub. L. 110–181, §604(a), inserted before period at end of first sentence '', when the total monthly military compensation of the member is less than the average monthly civilian income of the member''.

Subsec. (b). Pub. L. 110–181, §604(b), amended subsec. (b) generally. Prior to amendment, text read as follows: ''Subject to subsection (c), a reserve component member is entitled to a payment under this section for any full month of active duty of the member, while on active duty under an involuntary mobilization order, following the date on which the member—

''(1) completes 18 continuous months of service on active duty under such an order;

''(2) completes 24 months on active duty during the previous 60 months under such an order; or

''(3) is involuntarily mobilized for service on active duty for a period of 180 days or more within six months or less following the member's separation from a previous period of involuntary active duty for a period of 180 days or more.''

Subsec. (g). Pub. L. 110–417 substituted ''December 31, 2009'' for ''December 31, 2008''.

Pub. L. 110–181, §604(c), amended subsec. (g) generally. Prior to amendment, text read as follows: ''No payment shall be made under this section after December 31, 2008.''

EFFECTIVE DATE

Pub. L. 109–163, div. A, title VI, §614(c), Jan. 6, 2006, 119 Stat. 3293, provided that: ''Section 910 of title 37, United States Code, as added by subsection (a), may apply only with respect to months beginning after the end of the 180-day period beginning on the date of the enactment of this Act [Jan. 6, 2006].''

## CHAPTER 19—ADMINISTRATION

Sec.
1001. Regulations relating to pay and allowances.
1002. Additional training or duty without pay: Reserves and members of National Guard.
1003. Assimilation of pay and allowances.
1004. Computation of pay and allowances for month or part of month.
1005. Army and Air Force: prompt payments required.
1006. Advance payments.
1007. Deductions from pay.
1008. Presidential recommendations concerning adjustments and changes in pay and allowances.
1009. Adjustments of monthly basic pay.
1010. Commissioned officers: promotions; effective date for pay and allowances.
1011. Mess operations: reimbursement of expenses.[1]
1012. Disbursement and accounting: pay of enlisted members of the National Guard.
1013. Payment of compensation for victims of terrorism.
1014. Payment date for pay and allowances.
[1015. Repealed.]

AMENDMENTS

2006—Pub. L. 109–364, div. A, title X, §1046(b)(2), Oct. 17, 2006, 120 Stat. 2394, struck out item 1015 ''Annual report on effects of recruitment and retention initiatives''.

1999—Pub. L. 106–65, div. A, title VI, §673(a)(2), Oct. 5, 1999, 113 Stat. 674, added item 1015.

1997—Pub. L. 105–85, div. A, title VI, §604(a)(2), Nov. 18, 1997, 111 Stat. 1784, substituted ''monthly basic pay'' for ''compensation'' in item 1009.

1990—Pub. L. 101–510, div. A, title XIV, §1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

1987—Pub. L. 100–26, §8(b)(2), Apr. 21, 1987, 101 Stat. 285, redesignated item 1013 ''Payment date for pay and allowances'' as 1014.

1986—Pub. L. 99–500, §101(c) [title IX, §9103(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–118, and Pub. L. 99–591, §101(c) [title IX, §9103(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–118, added item 1013, relating to payment date for pay and allowances.

Pub. L. 99–399, title VIII, §806(e)(2), Aug. 27, 1986, 100 Stat. 889, added item 1013, relating to payment of compensation for victims of terrorism.

1985—Pub. L. 99–145, title XIII, §1303(b)(13)(C), Nov. 8, 1985, 99 Stat. 741, inserted '': pay of enlisted members of the National Guard'' in item 1012.

1982—Pub. L. 97–258, §2(i)(2)(A), Sept. 13, 1982, 96 Stat. 1061, added item 1012.

1980—Pub. L. 96–513, title V, §§506(9), 516(21), Dec. 12, 1980, 94 Stat. 2919, 2939, added items 1010 and 1011 and substituted ''Force:'' for ''Force;'' in item 1005.

[1] So in original. Does not conform to section catchline.

1974—Pub. L. 93–419, § 4, Sept. 19, 1974, 88 Stat. 1152, added item 1009.

1965—Pub. L. 89–132, § 2(b), Aug. 21, 1965, 79 Stat. 547, added item 1008.

## § 1001. Regulations relating to pay and allowances

(a) A Secretary of a military department may not prescribe a regulation under this title or any other law, relating to the pay and allowances of members of an armed force under that department, unless it has been approved under procedures prescribed by the Secretary of Defense.

(b) Regulations of the Secretary concerned relating to pay and allowances matters, similar to those covered by subsection (a), for members of the Coast Guard, the National Oceanic and Atmospheric Administration, and the Public Health Service, shall, as far as practicable, conform to regulations approved under that subsection.

(c) The Secretary of Defense, the Secretary of Homeland Security, the Secretary of Commerce, or the Secretary of Health and Human Services, may obtain from the Comptroller General an advisory opinion with respect to a proposed regulation especially affecting a department under that Secretary's jurisdiction.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 489; Pub. L. 89–718, §§ 49(a)(1), 69, Nov. 2, 1966, 80 Stat. 1121, 1123; Pub. L. 90–623, § 3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96–513, title V, § 516(22), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1001(a) ..... | 37:324 (1st sentence). | Oct. 12, 1949, ch. 681, § 534; added Sept. 2, 1957, Pub. L. 85–272, § 4, 71 Stat. 597. |
| 1001(b) ..... | 37:324 (2d sentence). | |
| 1001(c) ..... | 37:324 (less 1st and 2d sentences). | |

In subsection (a), the words "within the Department of Defense" are omitted as surplusage. The words "members of the armed forces" are substituted for the words "military personnel".

In subsection (b), the words "conform to" are substituted for the words "agree with".

In subsection (c), the words "or departments" are omitted, since, under section 1 of title 1, words importing the singular include and apply to several persons, parties, or things.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–296 substituted "Secretary of Homeland Security" for "Secretary of Transportation".

1991—Subsec. (b). Pub. L. 102–25 struck out "of this section" after "subsection (a)".

1980—Subsec. (b). Pub. L. 96–513, § 516(22)(A), substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

Subsec. (c). Pub. L. 96–513, § 516(22)(B), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

1968—Subsec. (c). Pub. L. 90–623 substituted "Secretary of Transportation" for "Secretary of the Treasury".

1966—Subsec. (b). Pub. L. 89–718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey", and inserted "and allowances" between "pay" and "matters".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

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), 551(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.

## § 1002. Additional training or duty without pay: Reserves and members of National Guard

(a) A member of the National Guard, or of a reserve component of a uniformed service, may, with his consent, be given additional training or other duty as provided by law, without pay, as may be authorized by the Secretary concerned.

(b)(1) A member who performs training or other duty without pay under subsection (a) may, in the discretion of the Secretary concerned, be authorized the travel and transportation allowances prescribed by section 404(a)–(d), and (f), of this title for travel performed to and from that training or duty, and, during the performance of that training or duty, be furnished with subsistence and quarters in kind or commutation thereof at a rate to be fixed by the Secretary concerned.

(2) If a military technician (dual status), as described in section 10216 of title 10, is performing active duty without pay while on leave from technician employment, as authorized by section 6323(d) of title 5, the Secretary concerned may authorize the payment of a per diem allowance to the military technician in lieu of commutation for subsistence and quarters under paragraph (1).

(c) This section does not authorize compensation for work or study performed by a member of a reserve component in connection with correspondence courses of an armed force.

(d) This section does not apply to a member who is entitled to basic pay under chapter 3 of this title.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 489; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 106–65, div. A, title VI, § 672(a), Oct. 5, 1999, 113 Stat. 674.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1002(a) ..... | 37:301(b) (1st sentence, less last 75 words). | Oct. 12, 1949, ch. 681, § 501(b), (e) (as applicable to duty without pay), 63 Stat. 826, 827; Aug. 10, 1956, ch. 1041, § 20(f), 70A Stat. 629; June 30, 1960, Pub. L. 86–559, § 8, 74 Stat. 282; Aug. 25, 1961, Pub. L. 87–164, 75 Stat. 401. |
| 1002(b) ..... | 37:301(b) (last 75 words of 1st sentence). | |
| 1002(c) ..... | 37:301(b) (less 1st sentence). | |
| 1002(d) ..... | 37:301(e) (as applicable to duty without pay). | |

In subsection (a), the words ''A member of the National Guard, or of a reserve component'' are substituted for the enumeration of those reserve categories to conform to other sections of this revised title.

In subsection (b), the words ''section 404(a)–(d), and (f), of this title'' are substituted for the words ''section 253(a) of this title'' to reflect the section of this revised title which restates that section.

Subsection (d) is substituted for section 301(e) of existing title 37.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–65 designated existing provisions as par. (1) and added par. (2).

1991—Subsec. (b). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)''.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, § 672(c), Oct. 5, 1999, 113 Stat. 674, provided that: ''The amendment made by subsection (a) [amending this section] shall be effective as of February 10, 1996, as if included in section 1039 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 432 [amending section 6323 of Title 5, Government Organization and Employees]).

## § 1003. Assimilation of pay and allowances

Chapters 3 and 5 and sections 402–407, 409–411, and 414 of this title apply equally to persons who are not serving as members of a uniformed service but whose pay or allowances, or both, are assimilated under law or a regulation prescribed under law, to the pay or allowances, or both, of commissioned officers, warrant officers, or enlisted members of any grade, rank, or rating in any uniformed service.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 490.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1003 ..... | 37:309. | Oct. 12, 1949, ch. 681, § 509; restated May 19, 1952, ch. 310, § 3, 66 Stat. 80. |

## § 1004. Computation of pay and allowances for month or part of month

A member of a uniformed service who is entitled to pay and allowances under this title for a continuous period of less than one month is entitled to his pay and allowances for each day of that period at the rate of 1/30 of the monthly amount of his pay and allowances. The thirty-first day of a calendar month may not be excluded from a computation under this section.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 490.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1004 ..... | 37:310. | Oct. 12, 1949, ch. 681, § 510, 63 Stat. 828. |

## § 1005. Army and Air Force: prompt payments required

Members of the Army and of the Air Force shall be paid at such times that arrears will at no time be more than two months, unless circumstances make further arrears unavoidable.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 490.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1005 ..... | 37:310b. | R.S. 1189. |

The applicability of this section to members of the Air Force is based on Department of Defense Transfer Order No. 25, dated October 14, 1948.

## § 1006. Advance payments

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service may be paid in advance—

(1) not more than three months' pay of such member upon such member's change of permanent station; or

(2) the amount of an allotment made from such member's pay to a dependent if such member is assigned or scheduled for assignment to sea duty or other duty with a unit or command deployed or to be deployed outside the United States and the allotment is made by such member not more than sixty days before the scheduled date of the assignment of such member to such duty.

(b) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who is on duty at a distant station where the pay and emoluments to which he is entitled cannot be disbursed regularly, may be paid in advance.

(c) Under regulations prescribed by the Secretary concerned, an advance of pay to a member of a uniformed service who is on duty outside the United States, or other place designated by the Secretary of Defense, of not more than two months' basic pay may be made to a member if the member or the dependents of the member are ordered evacuated by competent authority. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b). An advance may be made on the basis of the evacuation of a member's dependents only if all dependents of members of the uniformed services are ordered evacuated from the place where the member's dependents are located. In the case of a member with dependents, the payment may be made directly to dependents previously designated by the member. The Secretary concerned or his designee may waive any right of recovery of not more than one month's basic pay advanced under this subsection if he finds that recovery of the advance would be

against equity and good conscience or against the public interest.

(d) If a person to whom an advance of pay is made under subsection (a), (b), or (c) dies or is separated from his uniformed service, before liquidation of that advance, the amount remaining unliquidated at the time of his death or separation shall be credited to the account of the disbursing officer concerned. However, the unliquidated amount remains a debt of that person or his estate to the United States.

(e)(1) As far as practicable, regulations for the administration of subsections (a)–(d) shall be uniform for all of the uniformed services.

(2)(A) Notwithstanding any other provision of law, an obligation for an advance of pay made pursuant to this section shall be recorded as an obligation only in the fiscal year in which the entitlement of the member to the pay accrues.

(B) Current appropriations available for advance payments under this section may be transferred to the prior fiscal year appropriation available for the same purpose in the amount of any unliquidated advance payments that remain at the end of such prior fiscal year. Such unliquidated advance payments shall then be credited to the current appropriation.

(f) Under regulations prescribed by the Secretary of Homeland Security, an advance of pay of not more than three months' pay may be made to an officer of the Coast Guard who is ordered to sea duty or to or from shore duty beyond the seas. In addition, the Commandant of the Coast Guard may direct such advances as he considers necessary and proper to members of the Coast Guard stationed at distant stations where the pay and emoluments to which they are entitled cannot be paid regularly.

(g) Under regulations prescribed by the Secretary concerned, the dislocation allowance authorized by section 407 of this title for a member of a uniformed service whose dependents are covered by section 405a(a) of this title may be paid in advance of the evacuation of the dependents and to the dependents designated by the member.

(h) Notwithstanding subsections (a) and (b) of section 3324 of title 31, the Secretary concerned may, when the last day of the pay period falls on a Saturday, Sunday, or legal holiday, authorize the payment of pay and allowances to members of uniformed service under his jurisdiction on the preceding workday but not more than three days before the last day of that pay period. If a member dies after he has received an advance payment under this subsection, but before the last day of the pay period for which the payment is made, no part of the amount so advance is recoverable by the United States.

(i) Under regulations prescribed by the Secretary concerned, not more than one month's pay may be paid in advance to a member of the Armed Forces Health Professions Scholarship program upon reporting for a period of active duty required by section 2121(c) of title 10.

(j) Under regulations prescribed by the Secretary concerned, not more than one month's pay may be paid in advance to a member of the Senior Reserve Officers' Training Corps who is ordered to field training or a practice required under section 2109 of title 10.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 490; Pub. L. 89–26, § 1(6), May 22, 1965, 79 Stat. 117; Pub. L. 89–193, Sept. 21, 1965, 79 Stat. 823; Pub. L. 89–718, § 70, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90–623, § 3(1), (9), Oct. 22, 1968, 82 Stat. 1314, 1315; Pub. L. 96–76, title III, § 313(b), Sept. 29, 1979, 93 Stat. 586; Pub. L. 96–215, § 3, Mar. 25, 1980, 94 Stat. 123; Pub. L. 96–343, § 8, Sept. 8, 1980, 94 Stat. 1128; Pub. L. 96–513, title V, § 516(23), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 97–60, title I, § 131(b), Oct. 14, 1981, 95 Stat. 1005; Pub. L. 97–258, § 3(j), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 99–145, title XIII, § 1303(b)(12), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99–661, div. A, title VI, § 602(a), Nov. 14, 1986, 100 Stat. 3874; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title VI, § 602(a), Oct. 23, 1992, 106 Stat. 2420; Pub. L. 103–160, div. A, title VI, § 605(a), Nov. 30, 1993, 107 Stat. 1679; Pub. L. 105–261, div. A, title VI, § 652, Oct. 17, 1998, 112 Stat. 2051; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1006(a) ..... | 37:310c(a). | Oct. 5, 1949, ch. 600, § 1, 63 Stat. 703. |
| 1006(b) ..... | 37:319c(b). | Oct. 5, 1949, ch. 600, § 2; added Aug. 30, 1961, Pub. L. 87–188, § 1, 75 Stat. 416. |
| 1006(c) ..... | 37:310c–1. | Oct. 5, 1949, ch. 600, § 2, 63 Stat. 704; redesignated as section 3, Aug. 30, 1961, Pub. L. 87–188, § 2, 75 Stat. 416. |
| 1006(d) ..... | 37:310d. | |
| 1006(e) ..... | 37:310c (less (a) and (b)). | |
| 1006(f) ..... | 14:465. | [None.] |

In subsections (a) and (b), the words ''a member of an armed force'' are substituted for the words ''commissioned and warrant officers, and enlisted men of the armed services.'' The words ''Secretary concerned'' are substituted for the words ''heads of the departments concerned'' to conform to the definition in section 101(5) of this revised title.

In subsection (b), the words ''may be paid in advance'' are substituted for the words ''may have their pay and emoluments advanced''.

In subsection (c), the words ''Secretary concerned'' are substituted for the words ''heads of the departments concerned'' to conform to the definition in section 101(5) of this revised title. The words ''member of an armed force'' are substituted for the words ''members of the armed services''. The words ''who are'' are substituted for the words ''in the event such dependents are''. The words ''under subsection (a) or (b) of this section'' are substituted for the words ''in section 310c of this title'' to reflect the section of this revised title which restates that section. The words ''dependents of members of the armed forces'' are substituted for the words ''military dependents.'' The words ''at a place'' are omitted as surplusage.

In subsection (d), the words ''If a'' are substituted for the words ''In the event the''. The words ''credited to the account'' are substituted for the words ''passed to credit in the account''.

AMENDMENTS

2002—Subsec. (f). Pub. L. 107–296 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

1998—Subsec. (e). Pub. L. 105–261 designated existing provisions as par. (1) and added par. (2).

1993—Subsec. (c). Pub. L. 103–160 substituted ''the Secretary of Defense'' for ''the President'' in first sentence.

1992—Subsec. (c). Pub. L. 102–484 inserted first four sentences and struck out former first and second sentences which read as follows: ''Under regulations prescribed by the Secretary concerned, an advance of pay to a member of a uniformed service who is on duty outside the United States, or other place designated by the President, of not more than two months' basic pay may be made directly to his previously designated dependents who are ordered evacuated by competent authority. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b), and may be made only if all dependents of members of the uniformed services are ordered evacuated from the place where the member's dependents are located.''

1991—Subsec. (c). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a) or (b)''.

Subsec. (d). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a), (b), or (c)''.

Subsec. (e). Pub. L. 102–25 struck out ''of this section'' after ''subsections (a)–(d)''.

1986—Subsec. (j). Pub. L. 99–661 added subsec. (j).

1985—Subsec. (h). Pub. L. 99–145 substituted ''subsections (a) and (b) of section 3324'' for ''section 3324(a) and (b)''.

1982—Subsec. (h). Pub. L. 97–258 substituted ''section 3324(a) and (b) of title 31'' for ''section 3648 of the Revised Statutes (31 U.S.C. 529)'' after ''Notwithstanding''.

1981—Subsec. (i). Pub. L. 97–60 added subsec. (i).

1980—Subsec. (a). Pub. L. 96–343 inserted provision authorizing an advance payment of the amount of an allotment made from the pay of a member of the uniformed services to a dependent if the member is scheduled for duty with a unit deployed outside the United States and the allotment is made not more than 60 days before the scheduled date of the assignment.

Pub. L. 96–215, §3(1), substituted ''a uniformed service'' for ''an armed force or of the Public Health Service''.

Subsec. (b). Pub. L. 96–215, §3(1), substituted ''a uniformed service'' for ''an armed force or of the Public Health Service''.

Subsec. (c). Pub. L. 96–215, §3(1), (2), substituted ''a uniformed service'' for ''an armed force or of the Public Health Service'' and ''members of the uniformed services'' for ''members of the armed forces or of the Public Health Service''.

Subsec. (d). Pub. L. 96–215, §3(3), substituted ''from his uniformed service'' for ''from his armed force or from the Public Health Service''.

Subsec. (e). Pub. L. 96–215, §3(4), substituted ''uniformed services'' for ''armed forces and the Public Health Service''.

Subsec. (h). Pub. L. 96–513 substituted ''3648 of the Revised Statutes (31 U.S.C. 529)'' for ''529 of title 31''.

Pub. L. 96–215, §3(5), substituted ''a uniformed service'' for ''an armed force or of the Public Health Service''.

1979—Subsecs. (a) to (d) and (h). Pub. L. 96–76 inserted reference to the Public Health Service.

1968—Subsec. (a). Pub. L. 90–623, §3(9), substituted ''change of permanent station'' for ''permanent change of station''.

Subsec. (f). Pub. L. 90–623, §3(1), substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

1966—Subsec. (h). Pub. L. 89–718 redesignated as subsec. (h) the subsection relating to advance payment of pay and allowances when the last day of the pay period falls on a Saturday, Sunday, or legal holiday, formerly designated as subsec. (g).

1965—Subsec. (c). Pub. L. 89–26, §1(6)(A), empowered the Secretary concerned or his designee to waive any right of recovery of not more than one month's basic pay advanced if he finds that recovery of the advance would be against equity and good conscience or against the public interest.

Subsec. (g). Pub. L. 89–193 added subsec. (g) relating to the payment of pay and allowances when the last day of the pay period falls on a Saturday, Sunday, or legal holiday.

Pub. L. 89–26, §1(6)(B), added subsec. (g) relating to advance payment of the dislocation allowance.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 602(b) of Pub. L. 102–484 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to evacuations on or after June 1, 1991.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 602(b) of Pub. L. 99–661, as amended by Pub. L. 100–26, §3(2), Apr. 21, 1987, 101 Stat. 273, provided that: ''Subsection (j) of section 1006 of title 37, United States Code, as added by subsection (a), shall apply with respect to pay payable for months beginning after the date of the enactment of this Act [Nov. 14, 1986].''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–76 effective Oct. 1, 1979, see section 314 of Pub. L. 96–76, set out as a note under section 206 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–26 effective Feb. 1, 1965, see section 2 of Pub. L. 89–26, as amended, set out as an Effective Date note under section 405a of this title.

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), 551(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.

FISCAL YEAR OF RECORDATION OF OBLIGATIONS

Pub. L. 94–212, title VII, §744, Feb. 9, 1976, 90 Stat. 175, provided that: ''Obligations hereafter incurred for advance payments of pay and allowances pursuant to section 1006 of title 37, United States Code, shall be recorded as obligations only in the fiscal year in which such payments are earned.''

## §1007. Deductions from pay

(a) The pay of an officer of an armed force may be withheld, under section 5512 of title 5, only for an indebtedness to the United States admitted by the officer or shown by the judgment of a court, or upon a special order issued in the discretion of the Secretary of Defense (or the Secretary of Homeland Security, in the case of an

officer of the Coast Guard when the Coast Guard is not operating as a service in the Navy), or upon the denial of relief of an officer pursuant to section 3527 of title 31.

(b) An amount due to the United States from an enlisted member of the Army or the Air Force for articles sold to him on credit under section 4621(a)(1) or 9621(a)(1) of title 10, as the case may be, shall be deducted from the next pay due him after the sale is reported.

(c)(1) Under regulations prescribed by the Secretary concerned, an amount that a member of the uniformed services is administratively determined to owe the United States or any of its instrumentalities may be deducted from the member's pay in monthly installments.

(2) After the deduction of pay forfeited by the sentence of a court-martial, if any, or otherwise authorized by law to be withheld, the deductions authorized by this section may not reduce the pay actually received by a member of the uniformed services for any month to less than one-third of the member's pay for that month.

(3)(A) If the indebtedness of a member of the uniformed services to the United States is due to the overpayment of pay or allowances to the member through no fault of the member, the amount of the overpayment shall be recovered in monthly installments. The amount deducted from the pay of the member for a month to recover the overpayment amount may not exceed 15 percent of the member's pay for that month unless the member requests or consents to collection of the overpayment at an accelerated rate.

(B) In all cases described in subparagraph (A), the Secretary concerned shall provide a reasonable opportunity for the member to request a delay in the imposition of the repayment requirement to recover the indebtedness. Before beginning collection efforts, the Secretary concerned shall consider the reasons provided by the member for the requested delay, including the financial ability of the member to repay the indebtedness, and the hardship that immediate collection would impose on the member and the member's dependents.

(4)(A) If a member of the uniformed services, through no fault of the member, incurs a wound, injury, or illness while in the line of duty in a combat operation or combat zone designated by the President or the Secretary of Defense, any overpayment of pay or allowances made to the member while the member recovers from the wound, injury, or illness may not be deducted from the member's pay until—

(i) the member is notified of the overpayment; and

(ii) the later of the following occurs:

(I) The end of the 180-day period beginning on the date of the completion of the tour of duty of the member in the combat operation or combat zone.

(II) The end of the 90-day period beginning on the date of the reassignment of the member from a military treatment facility or other medical unit outside of the theater of operations.

(B) Subparagraph (A) shall not apply if the member, after receiving notification of the overpayment, requests or consents to initiation at an earlier date of the collection of the overpayment of the pay or allowances.

(d) Subject to subsection (c), an amount due the United States from an enlisted member of the Army or the Air Force may be deducted from his pay on final statement, or from his savings on his clothing allowance.

(e) The amount of any damage, or cost of repairs, to arms or equipment caused by the abuse or negligence of a member of the Army, Navy, Air Force, or Marine Corps, as the case may be, who had the care of, or was using, the property when it was damaged, shall be deducted from his pay.

(f) If, upon final settlement of the accounts of an officer of the Army or the Air Force charged with the issue of an article of military supply, there is a deficiency of that article, or if an article of military supply with whose issue an officer is charged is damaged, the value of the lost article or the amount of the damage shall be charged against the officer and deducted from his monthly pay, unless he shows to the satisfaction of the Secretary of the Army or the Secretary of the Air Force, as the case may be, by one or more affidavits setting forth the circumstances, that he was not at fault.

(g) An amount due the United States from an officer of the Army or the Air Force for rations bought on credit, and for articles bought on credit under section 4621(a)(1) or 9621(a)(1) of title 10, shall be deducted from the next pay due that officer after the sale is reported.

(h)(1) Upon request by a service relief society and subject to paragraph (2), an amount owed by a member of the uniformed services to the relief society may be deducted from the pay on final statement of such member and paid to that relief society.

(2) An amount may not be deducted under paragraph (1) from the pay of a member unless the Secretary concerned makes a determination of the amount owed in accordance with the regulations prescribed under subsection (c). Any amount determined to be owed to a service relief society under this paragraph shall be considered an amount that the member is administratively determined to owe the United States under subsection (c) and shall be collectible in accordance with such subsection.

(3) The Secretaries concerned shall prescribe regulations to carry out this subsection.

(4) In this subsection, the term ''service relief society'' means the Army Emergency Relief, the Air Force Aid Society, the Navy Relief Society, or the Coast Guard Mutual Assistance.

(i)(1) There shall be deducted each month from the pay of each enlisted member, warrant officer, and limited duty officer of the armed forces on active duty an amount (determined under paragraph (3)) not to exceed $1.00.

(2) Amounts deducted under paragraph (1) shall be deposited in the Armed Forces Retirement Home Trust Fund.

(3) The Secretary of Defense, after consultation with the Armed Forces Retirement Home Board, shall determine from time to time the amount to be deducted under paragraph (1) from the pay of enlisted members, warrant officers,

and limited duty officers on the basis of the financial needs of the Armed Forces Retirement Home. The amount to be deducted may be fixed at different amounts on the basis of grade or length of service, or both.

(4) In this subsection, the term ''armed forces'' does not include the Coast Guard when it is not operating as a service in the Navy.

(5) This subsection does not apply to an enlisted member, warrant officer, or limited duty officer of a reserve component.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 491; Pub. L. 89–718, §§71, 72, Nov. 2, 1966, 80 Stat. 1124; Pub. L. 90–83, §5(3), Sept. 11, 1967, 81 Stat. 221; Pub. L. 98–525, title XIII, §1305, Oct. 19, 1984, 98 Stat. 2613; Pub. L. 99–145, title VI, §684, Nov. 8, 1985, 99 Stat. 666; Pub. L. 100–180, div. A, title VI, §633(a), Dec. 4, 1987, 101 Stat. 1105; Pub. L. 101–189, div. A, title III, §343(a), Nov. 29, 1989, 103 Stat. 1420; Pub. L. 101–510, div. A, title XV, §1533(b), Nov. 5, 1990, 104 Stat. 1735; Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title X, §1054(a)(7), Oct. 23, 1992, 106 Stat. 2502; Pub. L. 103–337, div. A, title III, §371(a), Oct. 5, 1994, 108 Stat. 2735; Pub. L. 104–106, div. A, title IX, §913(c)(2), Feb. 10, 1996, 110 Stat. 411; Pub. L. 104–201, div. A, title X, §1009(c)(1), Sept. 23, 1996, 110 Stat. 2635; Pub. L. 106–65, div. A, title X, §1066(d)(5), Oct. 5, 1999, 113 Stat. 773; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title X, §1006(b), Dec. 2, 2002, 116 Stat. 2633; Pub. L. 109–364, div. A, title VI, §674, Oct. 17, 2006, 120 Stat. 2272; Pub. L. 111–84, div. A, title VI, §661(a)–(c), Oct. 28, 2009, 123 Stat. 2370.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1007(a) ..... | 10:2772. | [None.] |
| | 14:461(b). | [None.] |
| 1007(b) ..... | 10:4837(a). | [None.] |
| | 10:9837(a). | [None.] |
| 1007(c) ..... | 10:4837(b). | [None.] |
| | 10:9837(b). | [None.] |
| 1007(d) ..... | 10:4837(c). | [None.] |
| | 10:9837(c). | [None.] |
| 1007(e) ..... | 10:4837(e). | [None.] |
| | 10:9837(e). | [None.] |
| 1007(f) ..... | 10:4837(f). | [None.] |
| | 10:9837(f). | [None.] |
| 1007(g) ..... | 10:4837(g). | [None.] |
| | 10:9837(g). | [None.] |

PRIOR PROVISIONS

Provisions similar to those in subsec. (i) of this section were contained in section 44c of Title 24, Hospitals and Asylums, prior to repeal by Pub. L. 101–189, §347(4).

AMENDMENTS

2009—Subsec. (c)(3). Pub. L. 111–84, §661(a), (b), designated existing provisions as subpar. (A), substituted ''15 percent'' for ''20 percent'', and added subpar. (B).

Subsec. (c)(4). Pub. L. 111–84, §661(c), amended par. (4) generally. Prior to amendment, text read as follows: ''If a member of the uniformed services is injured or wounded under the circumstances described in section 310(a)(2)(C) of this title or, while in the line of duty, incurs a wound, injury, or illness in a combat operation or combat zone designated by the Secretary of Defense, any overpayment of pay or allowances made to the member while the member recovers from the wound, injury, or illness may not be deducted from the member's pay until—

''(A) the end of the 90-day period beginning on the date on which the member is notified of the overpayment; or

''(B) such earlier date as may be requested or agreed to by the member.''

2006—Subsec. (c). Pub. L. 109–364 designated existing provisions as pars. (1) and (2), in pars. (1) and (2) substituted ''the member's pay'' for ''his pay'', in par. (2) substituted ''After'' for ''However, after'' and inserted ''by a member of the uniformed services'' after ''actually received'', and added pars. (3) and (4).

2002—Subsec. (a). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (e). Pub. L. 107–314 substituted ''Army, Navy, Air Force, or Marine Corps'' for ''Army or the Air Force''.

1999—Subsec. (b). Pub. L. 106–65 struck out at end ''An amount due the United States from an enlisted member of the Army or the Air Force for tobacco sold to him by the United States under section 4623 or 9623 of title 10 shall be deducted from his pay in the manner provided for the settlement of clothing accounts.''

1996—Subsec. (a). Pub. L. 104–201 inserted ''(or the Secretary of Transportation, in the case of an officer of the Coast Guard when the Coast Guard is not operating as a service in the Navy)'' after ''Secretary of Defense''.

Pub. L. 104–106 substituted ''Secretary of Defense, or upon the denial of relief of an officer pursuant to section 3527 of title 31'' for ''Secretary concerned''.

1994—Subsec. (i)(1). Pub. L. 103–337 substituted ''$1.00'' for ''50 cents''.

1992—Subsec. (i)(3). Pub. L. 102–484 substituted '', warrant officers, and limited duty officers'' for ''and warrant officers''.

1991—Subsec. (d). Pub. L. 102–25 struck out ''of this section'' after ''subsection (c)''.

1990—Subsec. (i)(1). Pub. L. 101–510, §1533(b)(1), substituted '', warrant officer, and limited duty officer'' for ''and warrant officer''.

Subsec. (i)(2). Pub. L. 101–510, §1533(b)(2), added par. (2) and struck out former par. (2) which read as follows: ''Amounts deducted under paragraph (1) shall be—

''(A) deposited in the Soldiers' Home, permanent fund, in the case of deductions from the pay of enlisted members and warrant officers in the Army and Air Force; and

''(B) credited to the funds available for the operation of the Naval Home, in the case of deductions from the pay of enlisted members and warrant officers in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy).''

Subsec. (i)(2)(B). Pub. L. 101–510, §1533(b)(1), which directed amendment of subpar. (B) by substituting '', warrant officer, and limited duty officer'' for ''and warrant officer'', could not be executed because the words ''and warrant officer'' did not appear.

Subsec. (i)(3). Pub. L. 101–510, §1533(b)(3), substituted ''Armed Forces Retirement Home Board'' for ''Governor of the Naval Home and the board of commissioners for the United States Soldiers' and Airmen's Home'' and ''of the Armed Forces Retirement Home'' for ''of the homes''.

Pub. L. 101–510, §1533(b)(1), which directed amendment of par. (3) by substituting '', warrant officer, and limited duty officer'' for ''and warrant officer'', could not be executed because the words ''and warrant officer'' did not appear.

Subsec. (i)(5). Pub. L. 101–510, §1533(b)(4), substituted '', warrant officer, or limited duty officer'' for ''or warrant officer''.

1989—Subsec. (i). Pub. L. 101–189 added subsec. (i).

1987—Subsec. (h). Pub. L. 100–180 added subsec. (h).

1985—Subsec. (c). Pub. L. 99–145 substituted ''uniformed services'' for ''armed forces''.

1984—Subsec. (c). Pub. L. 98–525 substituted ''a member of the armed forces'' for ''an enlisted member of the Army or the Air Force''.

1967—Subsec. (b). Pub. L. 90–83 struck out requirement that, in case of a member of the Army, the report be made to Chief of Finance.

1966—Subsec. (a). Pub. L. 89–718, §71, substituted ''section 5512 of title 5'' for ''section 82 of title 5''.

Subsec. (c). Pub. L. 89–718, § 72, substituted ''pay'' for ''basic pay'' as the amount which cannot be reduced below one-third through deductions from enlisted men of the Army or Air Force who have been administratively determined to owe the United States, payable by deductions in monthly installments.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title VI, § 661(d), Oct. 28, 2009, 123 Stat. 2370, provided that: ''The amendments made by this section [amending this section] shall apply only with respect to an overpayment of pay or allowances made to a member of the uniformed services after the date of the enactment of this Act [Oct. 28, 2009].''

EFFECTIVE DATE OF 2002 AMENDMENTS

Amendment by Pub. L. 107–314 applicable with respect to loss, spoilage, unserviceability, unsuitability, or destruction of, or damage to, property of United States under control of Department of Defense occurring on or after effective date of regulations prescribed pursuant to section 2787 of Title 10, Armed Forces, see section 1006(d) of Pub. L. 107–314, set out as an Effective Date note under section 2787 of Title 10.

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 371(d)(1) of Pub. L. 103–337 provided that: ''(1) The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1995, and apply to years that begin on or after that date.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101–510, formerly set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 343(b) of Pub. L. 101–189 provided that:

''(1) Except as provided in paragraph (2), subsection (i) of section 1007 of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month beginning after the date of the enactment of this Act [Nov. 29, 1989].

''(2) With respect to deductions from the pay of an enlisted member or warrant officer in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy), such subsection shall take effect on October 1, 1990.''

EFFECTIVE DATE OF 1987 AMENDMENT

Section 633(b) of Pub. L. 100–180 provided that: ''Subsection (h) of section 1007 of title 37, United States Code (as added by subsection (a)), shall apply with respect to debts incurred by members of the uniformed services after the date of the enactment of this Act [Dec. 4, 1987].''

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), 551(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.

## § 1008. Presidential recommendations concerning adjustments and changes in pay and allowances

(a) The President shall direct an annual review of the adequacy of the pays and allowances authorized by this title for members of the uniformed services.

(b) Whenever the President considers it appropriate, but in no event later than January 1, 1967, and not less than once each four years thereafter, he shall direct a complete review of the principles and concepts of the compensation system for members of the uniformed services. Upon completion of such review he shall submit a detailed report to Congress summarizing the results of such review together with any recommendations he may have proposing changes in the statutory salary system and other elements of the compensation structure provided members of the uniformed services.

(Added Pub. L. 89–132, § 2(a), Aug. 21, 1965, 79 Stat. 546; amended Pub. L. 104–106, div. A, title VI, § 642(b), Feb. 10, 1996, 110 Stat. 368.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106 struck out at end ''Upon completion of this review, but not later than March 31 of each year, the President shall submit to Congress a detailed report summarizing the results of such annual review together with any recommendations for adjustments in the rates of pay and allowances authorized by this title.''

EFFECTIVE DATE

Section effective Sept. 1, 1965, see section 10 of Pub. L. 89–132, set out as an Effective Date of 1965 Amendment note under section 203 of this title.

DELEGATION OF REPORTING FUNCTION

Memorandum of the President of the United States, June 9, 1989, 54 F.R. 25561, provided:

Memorandum for the Secretary of Defense

By virtue of the authority vested in me by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I authorize you to submit to the Congress the report summarizing the results of the review of the principles and concepts of the compensation system for members of the uniformed services, as required by P.L. 89–132, Sec. 2(a), August 21, 1965 (37 U.S.C. 1008(b)).

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

## § 1009. Adjustments of monthly basic pay

(a) REQUIREMENT FOR ANNUAL ADJUSTMENT.—Effective on January 1 of each year, the rates of basic pay for members of the uniformed services under section 203(a) of this title shall be increased under this section.

(b) EFFECTIVENESS OF ADJUSTMENT.—An adjustment under this section shall have the force and effect of law.

(c) EQUAL PERCENTAGE INCREASE FOR ALL MEMBERS.—(1) An adjustment made under this section in a year shall provide all eligible members with an increase in the monthly basic pay that is the percentage (rounded to the nearest one-tenth of one percent) by which the ECI for the base quarter of the year before the preceding year exceeds the ECI for the base quarter of the second year before the preceding calendar year (if at all).

(2) Notwithstanding paragraph (1), but subject to subsection (d), the percentage of the adjustment taking effect under this section during each of fiscal years 2004, 2005, and 2006, shall be

one-half of one percentage point higher than the percentage that would otherwise be applicable under such paragraph.

(3) In this subsection:

(A) The term ''ECI'' means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics.

(B) The term ''base quarter'' for any year is the three-month period ending on September 30 of such year.

(d) PROTECTION OF MEMBER'S TOTAL COMPENSATION WHILE PERFORMING CERTAIN DUTY.—(1) The total daily equivalent amount of the elements of compensation described in paragraph (3), together with other pay and allowances under this title, to be paid to a member of the uniformed services who is temporarily assigned to duty away from the member's permanent duty station or to duty under field conditions at the member's permanent duty station shall not be less, for any day during the assignment period, than the total amount, for the day immediately preceding the date of the assignment, of the elements of compensation and other pay and allowances of the member.

(2) Paragraph (1) shall not apply with respect to an element of compensation or other pay or allowance of a member during an assignment described in such paragraph to the extent that the element of compensation or other pay or allowance is reduced or terminated due to circumstances unrelated to the assignment.

(3) The elements of compensation referred to in this subsection mean—

(A) the monthly basic pay authorized members of the uniformed services by section 203(a) of this title;

(B) the basic allowance for subsistence authorized members of the uniformed services by section 402 of this title; and

(C) the basic allowance for housing authorized members of the uniformed services by section 403 of this title.

(e) PRESIDENTIAL DETERMINATION OF NEED FOR ALTERNATIVE PAY ADJUSTMENT.—(1) If, because of national emergency or serious economic conditions affecting the general welfare, the President considers the pay adjustment which would otherwise be required by this section in any year to be inappropriate, the President shall prepare and transmit to Congress before September 1 of the preceding year a plan for such alternative pay adjustments as the President considers appropriate, together with the reasons therefor.

(2) In evaluating an economic condition affecting the general welfare under this subsection, the President shall consider pertinent economic measures including the Indexes of Leading Economic Indicators, the Gross Domestic Product, the unemployment rate, the budget deficit, the Consumer Price Index, the Producer Price Index, the Employment Cost Index, and the Implicit Price Deflator for Personal Consumption Expenditures.

(3) The President shall include in the plan submitted to Congress under paragraph (1) an assessment of the impact that the alternative pay adjustments proposed in the plan would have on the Government's ability to recruit and retain well-qualified persons for the uniformed services.

(Added Pub. L. 93–419, §4, Sept. 19, 1974, 88 Stat. 1152; amended Pub. L. 94–361, title III, §303, July 14, 1976, 90 Stat. 925; Pub. L. 96–342, title VIII, §803, Sept. 8, 1980, 94 Stat. 1091; Pub. L. 96–513, title V, §516(24), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 102–25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title VI, §642(c), Feb. 10, 1996, 110 Stat. 368; Pub. L. 105–85, div. A, title VI, §§604(a)(1), 605, Nov. 18, 1997, 111 Stat. 1783, 1784; Pub. L. 106–65, div. A, title VI, §602(a), Oct. 5, 1999, 113 Stat. 649; Pub. L. 108–136, div. A, title VI, §602, Nov. 24, 2003, 117 Stat. 1498.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, §602(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''Whenever the General Schedule of compensation for Federal classified employees, as contained in section 5332 of title 5, is adjusted upward as provided in section 5303 of such title, the President shall immediately make an upward adjustment in the monthly basic pay authorized members of the uniformed services by section 203(a) of this title.''

Subsec. (b). Pub. L. 108–136, §602(b), substituted ''shall have the force and effect of law.'' for ''shall—

''(1) have the force and effect of law; and

''(2) carry the same effective date as that applying to the compensation adjustments provided General Schedule employees.''

Subsec. (c). Pub. L. 108–136, §602(c)(1), (3), added subsec. (c) and struck out former subsec. (c) which related to equal percentage increase for all members.

Subsec. (d). Pub. L. 108–136, §602(c)(1), (2), redesignated subsec. (f) as (d) and struck out former subsec. (d) which related to allocation of increase among pay grades and years-of-service.

Subsec. (e). Pub. L. 108–136, §602(c)(1), (4), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: ''Whenever the President plans to exercise the authority of the President under subsection (d) with respect to any anticipated increase in the monthly basic pay of members of the uniformed services, the President shall advise Congress, at the earliest practicable time prior to the effective date of such increase, regarding the proposed allocation of such increase.''

Subsec. (f). Pub. L. 108–136, §602(c)(2), redesignated subsec. (f) as (d).

Subsec. (g). Pub. L. 108–136, §602(c)(1), struck out heading and text of subsec. (g). Text read as follows: ''The allocations of increases made under this section shall be assessed in conjunction with the quadrennial review of military compensation required by section 1008(b) of this title.''

1999—Subsec. (c). Pub. L. 106–65 designated existing provisions as par. (1) and added par. (2).

1997—Pub. L. 105–85, §604(a)(1), amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to adjustments of compensation for members of the uniformed services.

Subsecs. (f), (g). Pub. L. 105–85, §605, added subsec. (f) and redesignated former subsec. (f) as (g).

1996—Subsec. (f). Pub. L. 104–106 struck out '', and a full report shall be made to the Congress summarizing the objectives and results of those allocations'' after ''of this title''.

1991—Subsecs. (b)(3), (c) to (e). Pub. L. 102–25 struck out ''of this section'' and ''of this subsection'' wherever appearing.

1980—Subsec. (a). Pub. L. 96–513, §516(24)(A), struck out '', United States Code,'' after ''5''.

Subsec. (b)(2). Pub. L. 96–513, §516(24)(B), struck out reference to section 8 of the Act of Dec. 16, 1967 (Pub. L. 90–207).

Subsec. (b)(3). Pub. L. 96–513, § 803(1), substituted ''subsections (c) and (d) of this section'' for ''subsection (c)''.

Subsec. (c). Pub. L. 96–342, § 803(2), (3), redesignated existing provision as par. (1), inserted ''of this section'' after ''subsection (b)(3)'' in two places and after ''subsection (a)'', substituted ''75 percent'' for ''75 per centum'', redesignated subsec. (d) as par. (2), substituted ''under paragraph (1) of this subsection'' for ''under subsection (c)'' in two places, inserted ''of this section'' after ''subsection (a)'', ''subsection (c)'', and ''subsection (b)(3)'', respectively, and ''of this title'' after ''section 403(b) or (c)'' in two places.

Subsec. (d). Pub. L. 96–342, § 803(3), (4), added subsec. (d) and redesignated former subsec. (d) as (c)(2).

Subsec. (e). Pub. L. 96–342, § 803(5), inserted ''or (d) of this section'' after ''subsection (c)'' and struck out ''among the different elements of compensation'' after ''allocation of such increase''.

Subsec. (f). Pub. L. 96–342, § 803(6), struck out ''among the three elements of compensation'' after ''under this section'' and inserted ''of this title'' after ''section 1008(b)''.

1976—Subsec. (b)(3). Pub. L. 94–361, § 303(a), inserted introductory phrase ''subject to subsection (c),''.

Subsecs. (c) to (f). Pub. L. 94–361, § 303(b), added subsecs. (c) to (f).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title VI, § 602(b), Oct. 5, 1999, 113 Stat. 649, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2000.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 604(b) of Pub. L. 105–85 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on January 1, 1998.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE

Section 9 of Pub. L. 93–419 provided that: ''This Act [enacting this section, amending sections 101, 203, 402, and 403 of this title, and enacting provisions set out as notes under this section] is effective upon enactment [Sept. 19, 1974].''

INCREASE IN BASIC PAY FOR FISCAL YEAR 2010

Pub. L. 111–84, div. A, title VI, § 601, Oct. 28, 2009, 123 Stat. 2347, provided that:

''(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2010 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

''(b) INCREASE IN BASIC PAY.—Effective on January 1, 2010, the rates of monthly basic pay for members of the uniformed services are increased by 3.4 percent.''

Provisions relating to adjustment of compensation for members of the uniformed services for prior fiscal years were contained in the following acts:

2009—Pub. L. 110–417, [div. A], title VI, § 601, Oct. 14, 2008, 122 Stat. 4482.

2008—Pub. L. 110–181, div. A, title VI, § 601, Jan. 28, 2008, 122 Stat. 145.

2007—Pub. L. 109–364, div. A, title VI, § 601, Oct. 17, 2006, 120 Stat. 2240.

2006—Pub. L. 109–163, div. A, title VI, § 601, Jan. 6, 2006, 119 Stat. 3286.

2005—Pub. L. 108–375, div. A, title VI, § 601, Oct. 28, 2004, 118 Stat. 1943.

2004—Pub. L. 108–136, div. A, title VI, § 601, Nov. 24, 2003, 117 Stat. 1495, as amended by Pub. L. 109–148, div. A, title VIII, § 8124(a)(1), Dec. 30, 2005, 119 Stat. 2727.

2003—Pub. L. 107–314, div. A, title VI, § 601, Dec. 2, 2002, 116 Stat. 2563.

2002—Pub. L. 107–107, div. A, title VI, § 601, Dec. 28, 2001, 115 Stat. 1129.

2001—Pub. L. 106–398, § 1 [[div. A], title VI, §§ 601, 602], Oct. 30, 2000, 114 Stat. 1654, 1654A–143.

2000—Pub. L. 106–65, div. A, title VI, § 601(a)–(c), Oct. 5, 1999, 113 Stat. 645, as amended by Pub. L. 106–398, § 1 [[div. A], title X, § 1087(c)(1)(C)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292.

1999—Pub. L. 105–261, div. A, title VI, § 601, Oct. 17, 1998, 112 Stat. 2036.

1998—Pub. L. 105–85, div. A, title VI, § 601, Nov. 18, 1997, 111 Stat. 1771.

1997—Pub. L. 104–201, div. A, title VI, § 601, Sept. 23, 1996, 110 Stat. 2539.

1996—Pub. L. 104–106, div. A, title VI, § 601, Feb. 10, 1996, 110 Stat. 356.

1995—Pub. L. 103–337, div. A, title VI, § 601(a), (b), Oct. 5, 1994, 108 Stat. 2779.

1994—Pub. L. 103–160, div. A, title VI, § 601, Nov. 30, 1993, 107 Stat. 1677.

1993—Pub. L. 102–484, div. A, title VI, § 601, Oct. 23, 1992, 106 Stat. 2420.

Pub. L. 102–484, div. D, title XLIV, § 4402, Oct. 23, 1992, 106 Stat. 2701, as amended by Pub. L. 103–160, div. A, title VI, § 602(a), (b)(1), Nov. 30, 1993, 107 Stat. 1678.

1992—Pub. L. 102–190, div. A, title VI, § 601, Dec. 5, 1991, 105 Stat. 1372.

Pub. L. 102–190, div. A, title XI, § 1111(c), Dec. 5, 1991, 105 Stat. 1491.

1991—Pub. L. 101–510, div. A, title VI, § 601, Nov. 5, 1990, 104 Stat. 1575.

1990—Pub. L. 101–189, div. A, title VI, § 601(a), (b), Nov. 29, 1989, 103 Stat. 1444.

1989—Pub. L. 100–456, div. A, title VI, § 601(a), (b), Sept. 29, 1988, 102 Stat. 1976.

1988—Pub. L. 100–180, div. A, title VI, § 601(a), (b), Dec. 4, 1987, 101 Stat. 1092, as amended by Pub. L. 100–202, § 110(b), Dec. 22, 1987, 101 Stat. 1329–436.

1987—Pub. L. 99–661, div. A, title VI, § 601(a), (b), title XIII, § 1310(c), Nov. 14, 1986, 100 Stat. 3873, 3983.

Pub. L. 99–500, § 144(b), Oct. 18, 1986, 100 Stat. 1783–350, and Pub. L. 99–591, § 144(b), Oct. 30, 1986, 100 Stat. 3341–353.

1986—Pub. L. 99–145, title VI, § 601, Nov. 8, 1985, 99 Stat. 635.

1985—Pub. L. 98–525, title VI, § 601, Oct. 19, 1984, 98 Stat. 2533.

1984—Pub. L. 98–94, title IX, § 901, Sept. 24, 1983, 97 Stat. 634.

1982—Pub. L. 97–60, title I, § 101, Oct. 14, 1981, 95 Stat. 989, as amended by Pub. L. 98–557, § 35(a), (c), Oct. 30, 1984, 98 Stat. 2877, eff. Oct. 1, 1984; Pub. L. 100–180, div. A, title XIII, § 1314(d)(3), (e)(2), Dec. 4, 1987, 101 Stat. 1176, eff. Oct. 1, 1986.

1981—Pub. L. 96–342, title VIII, § 801, Sept. 8, 1980, 94 Stat. 1090.

1976—

Pub. L. 94–106, title VIII, § 819, Oct. 7, 1975, 89 Stat. 544.

1975—Pub. L. 93–419, §§ 5–7, Sept. 19, 1974, 88 Stat. 1153.

ADJUSTMENT OF PAY RATES

For adjustment of pay rates under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 11812

Ex. Ord. No. 11812, Oct. 7, 1974, 39 F.R. 36307, which provided for the adjustment of pay rates effective Oct. 1, 1974, was superseded by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091.

EXECUTIVE ORDER NO. 11998

Ex. Ord. No. 11998, June 27, 1977, 42 F.R. 33021, which related to the President's Commission on Military

Compensation, was revoked by Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, formerly set out as a note under section 14 of the Appendix to Title 5.

### §1010. Commissioned officers: promotions; effective date for pay and allowances

An officer of a uniformed service who is promoted to a grade above second lieutenant or ensign is entitled to the pay and allowances of the grade to which promoted on the effective date of the promotion.

(Added Pub. L. 96–513, title IV, §403(c), Dec. 12, 1980, 94 Stat. 2905; amended Pub. L. 109–364, div. A, title X, §1071(c)(8), Oct. 17, 2006, 120 Stat. 2401.)

AMENDMENTS

2006—Pub. L. 109–364 substituted ''promotions'' for ''promotion'' in section catchline.

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of Title 10, Armed Forces.

### §1011. Mess operation: reimbursement of expenses

(a) The Secretary of Defense shall, by regulation, establish rates for meals sold at messes to officers, civilians, and enlisted members. Such rates shall be established at a level sufficient to provide reimbursement of operating expenses and food costs to the appropriations concerned, but members of the uniformed services and civilians in a travel status receiving a per diem allowance in lieu of subsistence shall be charged at a rate of not less than $2.50 per day. Notwithstanding the preceding sentence, if the Secretary determines that it is in the best interest of the United States, the Secretary may reduce a rate for meals established under this subsection by the amount of that rate attributable to operating expenses.

(b) For the purposes of this section, payment for meals at the rates established under this section may be made in cash or, in the case of enlisted members or civilian employees, by deduction from pay. Members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation or when residing at a military installation pursuant to an agreement in effect on June 30, 1986, and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.

(c) Spouses and dependent children of enlisted members in pay grades E–1, E–2, E–3, and E–4 may not be charged for meals sold at messes in excess of a level sufficient to cover food costs.

(d) When the Coast Guard is not operating as a service in the Navy, the Secretary of Homeland Security shall establish rates for meals sold at Coast Guard dining facilities, provide for reimbursement of operating expenses and food costs to the appropriations concerned, and reduce the rates for such meals when the Secretary determines that it is in the best interest of the United States to do so.

(Added Pub. L. 96–513, title IV, §413, Dec. 12, 1980, 94 Stat. 2906; amended Pub. L. 99–145, title VIII, §810(a), Nov. 8, 1985, 99 Stat. 681; Pub. L. 99–661, div. A, title VI, §655, Nov. 14, 1986, 100 Stat. 3891; Pub. L. 101–189, div. A, title III, §321, Nov. 29, 1989, 103 Stat. 1413; Pub. L. 104–324, title II, §214(a), Oct. 19, 1996, 110 Stat. 3915; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsec. (d). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1996—Subsec. (d). Pub. L. 104–324 added subsec. (d).

1989—Subsec. (a). Pub. L. 101–189 substituted ''and enlisted members'' for ''or enlisted members entitled to a per diem transportation allowance determined under section 404(d)(2) of this title'' and inserted at end ''Notwithstanding the preceding sentence, if the Secretary determines that it is in the best interest of the United States, the Secretary may reduce a rate for meals established under this subsection by the amount of that rate attributable to operating expenses.''

1986—Subsec. (b). Pub. L. 99–661 inserted ''or when residing at a military installation pursuant to an agreement in effect on June 30, 1986,'' in second sentence.

1985—Subsec. (c). Pub. L. 99–145 added subsec. (c).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–145 effective Oct. 1, 1985, see section 813 of Pub. L. 99–145, formerly set out in a Military Family Policy and Programs note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of Title 10, Armed Forces.

### §1012. Disbursement and accounting: pay of enlisted members of the National Guard

Amounts appropriated for the pay, under subsections (a), (b), and (d) of section 206, section 301(f), section 402(e), and section 1002 of this title, of enlisted members of the Army National Guard of the United States or the Air National Guard of the United States for attending regular periods of duty and instruction shall be disbursed and accounted for by the Secretary of Defense. All such disbursements shall be made for 3-month periods for units of the Army National Guard or Air National Guard under regulations prescribed by the Secretary of Defense, and on pay rolls prepared and authenticated as prescribed in those regulations.

(Added Pub. L. 97–258, §2(i)(2)(B), Sept. 13, 1982, 96 Stat. 1061; amended Pub. L. 99–145, title XIII, §1303(b)(13)(A), (B), Nov. 8, 1985, 99 Stat. 741; Pub. L. 104–106, div. A, title VI, §602(c)(2), title IX, §913(c)(1), Feb. 10, 1996, 110 Stat. 357, 411; Pub. L. 106–398, §1 [[div. A], title X, §1087(b)(5)], Oct. 30, 2000, 114 Stat. 1654, 1654A–292.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1012 ..... | 31:698a. | Aug. 10, 1956, ch. 1041, § 31, 70A Stat. 632. |

The words ''the Secretary concerned'' are substituted for ''officers and agents of the Finance Corps of the Army or finance officers of the Air Force, as the case may be'' and ''the Secretary of the Army or the Secretary of the Air Force, as the case may be'' for consistency in the title. The words ''various'' and ''issued'' are omitted as surplus.

AMENDMENTS

2000—Pub. L. 106–398 substituted ''section 402(e)'' for ''section 402(b)(3)''.

1996—Pub. L. 104–106 substituted ''section 402(b)(3)'' for ''the last sentence of section 402(b)'' and substituted ''Secretary of Defense'' for ''Secretary concerned'' in two places.

1985—Pub. L. 99–145 inserted '': pay of enlisted members of the National Guard'' in section catchline, and substituted ''for the pay, under subsections (a), (b), and (d) of section 206, section 301(f), the last sentence of section 402(b), and section 1002 of this title,'' for ''under sections 206(a), (b), and (d), 301(f), 309, 402(b) (last sentence), and 1002 of this title for pay'', ''All such disbursements'' for ''Disbursements'', and ''as prescribed in those'' for ''under the''.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1303(b)(13)(D) of Pub. L. 99–145 provided that: ''The amendments made by this paragraph [amending this section] shall take effect as if included in the enactment of section 2(i) of Public Law 97–258 [enacting this section].''

## § 1013. Payment of compensation for victims of terrorism

Any benefit or payment pursuant to section 559 of this title, or section 1032 or 1095a or chapter 110 of title 10, shall be paid out of funds available to the Secretary concerned for military personnel.

(Added Pub. L. 99–399, title VIII, § 801(e)(1), Aug. 27, 1986, 100 Stat. 888; amended Pub. L. 100–456, div. A, title XII, § 1233(g)(4), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 101–510, div. A, title XIV, § 1484(h)(6), Nov. 5, 1990, 104 Stat. 1718.)

CODIFICATION

Another section 1013 was renumbered section 1014 of this title.

AMENDMENTS

1990—Pub. L. 101–510 substituted ''1095a'' for ''1095''.

1988—Pub. L. 100–456 substituted ''section 1032'' for ''section 1051''.

## § 1014. Payment date for pay and allowances

(a) Amounts of basic pay, basic allowance for housing, basic allowance for subsistence, and other payments of military compensation (other than travel and transportation allowances and separation allowances) shall be paid on the first day of the month beginning after the month during which the right to such compensation accrues.

(b) Subsection (a) does not preclude one payment in midmonth for any element of compensation and does not affect any authority to make advance payments of pay and allowances.

(c) With respect to a member of the uniformed services who has elected to participate in the Thrift Savings Plan under section 211 of this title, subsection (a) does not preclude the payment of an amount equal to one-half of the monthly deposit to the Thrift Savings Fund otherwise to be made by the member in participating in the Plan, which amount may be deposited in the Thrift Savings Fund at midmonth.

(Added Pub. L. 99–500, § 101(c) [title IX, § 9103(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–118, and Pub. L. 99–591, § 101(c) [title IX, § 9103(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–118, § 1013; renumbered § 1014, Pub. L. 100–26, § 8(b)(2), Apr. 21, 1987, 101 Stat. 285; amended Pub. L. 105–85, div. A, title VI, § 603(d)(1)(E), Nov. 18, 1997, 111 Stat. 1782; Pub. L. 110–181, div. A, title VI, § 605(a), Jan. 28, 2008, 122 Stat. 146.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–181 added subsec. (c).

1997—Subsec. (a). Pub. L. 105–85 substituted ''housing'' for ''quarters''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section 101(c) [title IX, § 9103(4)] of Pub. L. 99–500 and Pub. L. 99–591, as amended by Pub. L. 100–26, § 4(a)(2), Apr. 21, 1987, 101 Stat. 274, provided that: ''Section 1014 of title 37, United States Code, as added by paragraph (1) and redesignated by section 8(b)(2) of the Defense Technical Corrections Act of 1987 [Pub. L. 100–26], and the amendments made by paragraph (3) [amending section 1466 of Title 10, Armed Forces], shall take effect on September 1, 1987.''

## [§ 1015. Repealed. Pub. L. 109–364, div. A, title X, § 1046(b)(1), Oct. 17, 2006, 120 Stat. 2393]

Section, added Pub. L. 106–65, div. A, title VI, § 673(a)(1), Oct. 5, 1999, 113 Stat. 674, related to annual report on effects of recruitment and retention initiatives.