Public Law 96-284
96th Congress

An Act

To amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to extend the special pay provisions for other health professionals in the uniformed services, and for other purposes.

June 28, 1980
[S. 2460]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Uniformed Services Health Professionals Special Pay Act of 1980.
37 USC 101 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Uniformed Services Health Professionals Special Pay Act of 1980".

REVISION OF SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES

SEC. 2. (a) Section 302 of title 37, United States Code, relating to special pay for medical officers of the uniformed services, is amended to read as follows:

"§ 302. Special pay: medical officers of the armed forces

"(a)(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) of this subsection who is serving in a pay grade below pay grade O-7 is entitled 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) $10,000 per year, if the officer has at least six but less than eight years of creditable service.

"(D) $9,500 per year, if the officer has at least eight but less than ten years of creditable service.

"(E) $9,000 per year, if the officer has at least ten but less than twelve years of creditable service.

"(F) $8,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

"(G) $7,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

"(H) $6,000 per year, if the officer has at least eighteen but less than twenty-two years of creditable service.

"(I) $5,000 per year, if the officer has twenty-two or more years of creditable service.

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"(3) An officer described in paragraph (1) of this subsection who is serving in a pay grade above pay grade O-6 is entitled to variable special pay at the rate of $1,000 per year.

"(4)(A) Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has less than ten years of creditable service is entitled to additional special pay of $9,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(B) 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.

"(5) An officer who is entitled to variable special pay under paragraph (2) or (3) of this subsection and who is board certified is entitled to additional special pay at the following rates:

"(A) $2,000 per year, if the officer has less than ten years of creditable service.

"(B) $2,500 per year, if the officer has at least ten but less than twelve years of creditable service.

"(C) $3,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

"(D) $4,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

"(E) $5,000 per year, if the officer has eighteen or more years of creditable service.

"(b)(1) Subject to subsection (c) of this section and paragraph (2) of this subsection and under regulations prescribed under section 303a(a) of this title, an officer who is entitled to variable special pay under subsection (a)(2) of this section may be paid incentive special pay in an amount not to exceed $8,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

Post, p. 592.

"(2) An officer is not eligible for incentive special pay under paragraph (1) of this subsection unless the Secretary concerned has determined that such officer is qualified in the medical profession.

"(3) 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.

"(c)(1) An officer may not be paid additional special pay under subsection (a)(4) of this section or incentive special pay under subsection (b) of this section 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.

Entitlement termination.

"(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) of this section. 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.

"(d) Regulations prescribed by the Secretary of Defense under section 303a(a) of this title shall include standards for determining— Determination standards.

"(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) of this section; and

"(2) whether an officer is board certified for purposes of subsection (a)(5) of this section.

"(e) Special pay payable to an officer under paragraphs (2), (3), and (5) of subsection (a) of this section shall be paid monthly. Special pay payable to an officer under subsection (a)(4) or (b)(1) of this section shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(f) 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) of this section 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.

"(g) For purposes of this section, creditable service of an officer is computed by adding— Creditable services, computation.

"(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.".

(b) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"302. Special pay: medical officers of the armed forces.".

REVISION OF SPECIAL PAY FOR MEDICAL OFFICERS OF THE PUBLIC HEALTH SERVICE

SEC. 3. (a)(1) Chapter 5 of such title is amended by inserting after section 302b the following new section:

"§ 302c. Special pay: medical officers of the Public Health Service 37 USC 302c.

"(a) A medical 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 the officer has not completed two years of active duty as an officer of 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.

"(2) $350 a month for each month of active duty if the officer has completed at least two years of active duty as an officer of 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.

"(b)(1) Subject to subsection (c) of this section and paragraph (2) of this subsection and under regulations prescribed under section 303a(a) of this title, an officer who is entitled to special pay under subsection (a) of this section and who is serving in a pay grade below pay grade O-7 may be paid incentive special pay in an amount not to *Post*, p. 592.

exceed $8,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(2) An officer is not eligible for incentive special pay under paragraph (1) of this subsection unless the Secretary of Health and Human Services has determined that such officer is qualified in the medical profession.

"(3) The amount that may be paid for incentive special pay under this subsection in any fiscal year may not exceed 6 percent of the total amount paid in such year for special pay under section 311 of this title for medical officers of the Public Health Service, for special pay under section 313 of this title, and for special pay under this section.

37 USC 311.

37 USC 313.

"(c)(1) An officer may not be paid incentive special pay under subsection (b) of this section 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.

Entitlement termination.

Post, p. 592.

"(2) Under regulations prescribed under section 303a(a) of this title, the Secretary of Health and Human Services may terminate at any time an officer's entitlement to the special pay authorized by subsection (b) of this section. 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.

"(d) Regulations prescribed by the Secretary of Health and Human Services under section 303a(a) of this title shall include standards for determining whether an officer is undergoing medical internship or initial residency training for purposes of subsection (b) of this section.

"(e) Special pay payable to an officer under subsection (b) of this section shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(f) 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 (b) of this section 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.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302b the following new item:

"302c. Special pay: medical officers of the Public Health Service.".

37 USC 313.

(b)(1) Subsection (a) of section 313 of such title, relating to special pay for medical officers who execute active duty agreements, is amended—

(A) by striking out "Secretary of Defense" and all that follows in such subsection through "Public Health Service," and inserting in lieu thereof "Secretary of Health and Human Services (hereinafter in this section referred to as the 'Secretary') and approved by the President, a medical officer of the Public Health Service"; and

(B) by striking out "Secretary concerned" each place it appears in such subsection and inserting in lieu thereof "Secretary".

(2) Subsection (b) of such section is amended by striking out "Secretary of Defense, the Secretary concerned" and inserting in lieu thereof "Secretary, the Secretary".

(3) Subsection (c) of such section is amended by striking out "by the Secretary of Defense or by the Secretary of Health, Education, and

Welfare, as appropriate," and inserting in lieu thereof "by the Secretary,".

(4) Subsection (e) of such section is amended—

(A) by striking out "The Secretary" and all that follows in such subsection through "each year" the first place it appears and inserting in lieu thereof "Not later than July 31 of each year, the Secretary shall submit a written report"; and

(B) by striking out the third sentence in such subsection.

(5) The heading of such section is amended to read as follows:

"§ 313. Special pay: medical officers of the Public Health Service who execute active duty agreements".

(6) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"313. Special pay: medical officers of the Public Health Service who execute active duty agreements.".

PERMANENT AUTHORITY FOR OTHER SPECIAL PAY PROVISIONS FOR HEALTH PROFESSIONALS IN THE UNIFORMED SERVICES

SEC. 4. (a) Section 302a of title 37, United States Code, relating to special pay for optometrists, is amended—

(1) by striking out "(a) In addition to any other basic pay, special pay, incentive pay, or allowances to which he is entitled, each" in subsection (a) and inserting in lieu thereof "Each";

(2) by striking out "beginning on or after October 1, 1977"; and

(3) by striking out subsections (b) and (c).

(b) Section 302b of such title, relating to special pay for dentists, is amended— 37 USC 302b.

(1) by striking out ", in addition to any other pay or allowances to which he is entitled,"; and

(2) by striking out the last sentence of such section.

(c) Section 303 of such title, relating to special pay for veterinarians, is amended— 37 USC 303.

(1) by striking out "(a) In addition to any other basic pay, special pay, incentive pay or allowances to which he is entitled, each" in subsection (a) and inserting in lieu thereof "Each";

(2) by striking out "beginning on or after October 1, 1977"; and

(3) by striking out subsections (b) and (c).

(d)(1) Subsection (a) of section 311 of such title, relating to continuation pay for physicians and dentists who extend their service on active duty, is amended to read as follows: 37 USC 311.

"(a)(1) Under regulations to be prescribed by the Secretary of Defense, an officer of the Army or Navy in the Dental Corps or an officer of the Air Force who is designated as a dental officer who— Active duty agreement.

"(A) is serving on active duty in a critical specialty designated by the Secretary of Defense;

"(B) has completed his initial active-duty obligation; and

"(C) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay (under the rates of basic pay in effect on April 1, 1980) when he executes that agreement for each additional year that he agrees to remain on active duty. The eligibility of an officer for special pay under the preceding sentence, and the method of computing the amount of such special pay, shall be determined in accordance with the provisions of the regulations of the Secretary of Defense which on April 1, 1980, determined the

eligibility for and method of computation of such special pay, except that in computing the amount of such special pay, the rates of basic pay to be applied are the rates of basic pay in effect on April 1, 1980.

"(2) Under regulations to be prescribed by the Secretary of Health and Human Services, a medical officer of the Public Health Service above the pay grade of O-6 or such an officer who is below that pay grade who is undergoing initial residency training and who was on active duty on July 1, 1974, or a dental officer of the Public Health Service who—

"(A) is serving on active duty in a critical specialty designated by the Secretary of Health and Human Services;

"(B) has completed his initial active-duty obligation; and

"(C) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay at the rate applicable to him when he executes that agreement for each additional year that he agrees to remain on active duty.

"(3) Pay under this section shall be paid in equal annual or semiannual installments as determined by the Secretary of Defense or the Secretary of Health and Human Services, as appropriate, in each additional year covered by an agreement to remain on active duty. However, in meritorious cases, the pay may be paid in fewer installments if the Secretary determines it to be in the best interest of the officer.".

(2) Subsection (c) of such section is amended by striking out "beginning with the calendar year 1968,".

(3) The heading of such section is amended to read as follows:

"§ 311. Special pay: continuation pay for dentists in the armed forces and physicians and dentists in the Public Health Service".

(4) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"311. Special pay: continuation pay for dentists in the armed forces and physicians and dentists in the Public Health Service.".

Repeal.

(e) Section 2 of the Act entitled "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (37 U.S.C. 302 note), is repealed.

GENERAL PROVISIONS RELATING TO HEALTH PROFESSIONALS

SEC. 5. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 303 the following new section:

37 USC 303a.

"§ 303a. Special pay: health professionals; general provisions

Administrative regulations.

"(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 302, 302a, 302b, 302c, 303, 311, and 313 of this title.

37 USC 302-302c, 303, 311, 313.

"(b) Special pay authorized under sections 302, 302a, 302b, 302c, 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, severance pay, or readjustment pay.

"(c) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 302, 302a, 302b, 303, and 311 of this title. 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.".

Review.

37 USC 302-302b, 303, 311.

Report to Congress.

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 303 the following new item:

"303a. Special pay: health professionals; general provisions.".

TECHNICAL AMENDMENT

SEC. 6. Section 306(e) of title 37, United States Code, relating to exclusions from special pay for officers holding positions of unusual responsibility, is amended by striking out "302 or 303" and inserting in lieu thereof "302, 302a, 302b, or 303".

TRANSITION PROVISIONS

SEC. 7. Notwithstanding any provision of the amendments made by this Act, 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 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).

37 USC 302 note.

37 USC 302, 311, 313.

EFFECTIVE DATE

37 USC 302 note.

SEC. 8. The amendments made by sections 2 and 3 shall apply to special pay payable for periods beginning after the last day of the month in which this Act is enacted.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-904 accompanyng H.R. 6982 (Comm. on Armed Services).
SENATE REPORT No. 96-749 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 28, considered and passed Senate.
June 23, H.R. 6982 considered and passed House; passage vacated and S. 2460, amended, passed in lieu.
June 26, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, VOL. 16, No. 27:
June 30, Presidential statement.