

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, completed 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.

(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.)

#### AMENDMENTS

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.—(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) 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

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

(2) Under any agreement entered into with a member under paragraph (1), 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). Paragraph (2) of section 8432(c) of title 5 applies to the Secretary’s obligation to make contributions under this paragraph, except that the reference in such paragraph (2) to contributions under paragraph (1) of such section 8432(c) does not apply.

(Added and amended Pub. L. 106-65, div. A, title VI, §§661(a)(1)(A), 662, Oct. 5, 1999, 113 Stat. 670, 672.)

#### AMENDMENTS

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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 sections 8432b, 8440e.

### CHAPTER 5—SPECIAL AND INCENTIVE PAYS

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.
301e.	Multiyear retention bonus: dental officers of the armed forces.
302.	Special pay: medical officers of the armed forces.
302a.	Special pay: optometrists.
302b.	Special pay: dental officers of the armed forces.
302c.	Special pay: psychologists and nonphysician health care providers.

Sec. 302d.	Special pay: accession bonus for registered nurses.	Sec. 323.	Special pay: retention incentives for members qualified in a critical military skill.
302e.	Special pay: nurse anesthetists.	324.	Special pay: accession bonus for new officers in critical skills.
302f.	Special pay: reserve, recalled, or retained health care officers.	325.	Incentive bonus: savings plan for education expenses and other contingencies.
302g.	Special pay: Selected Reserve health care professionals in critically short wartime specialties.	326.	Incentive bonus: conversion to military occupational specialty to ease personnel shortage.
302h.	Special pay: accession bonus for dental officers.		
302i.	Special pay: pharmacy officers.		
302j.	Special pay: accession bonus for pharmacy officers.		
303.	Special pay: veterinarians.		
303a.	Special pay: health professionals; general provisions.		
303b.	Waiver of board certification requirements.		
304.	Special pay: diving duty.		
305.	Special pay: hardship duty pay.		
305a.	Special pay: career sea pay.		
305b.	Special pay: service as member of Weapons of Mass Destruction Civil Support Team.		
306.	Special pay: officers holding positions of unusual responsibility and of critical nature.		
306a.	Special pay: members assigned to international military headquarters.		
307.	Special pay: special duty assignment pay for enlisted members.		
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 enlistment in the Selected Reserve.		
308d.	Special pay: enlisted members of the Selected Reserve assigned to certain high priority units.		
308e.	Special pay: bonus for reserve affiliation agreement.		
[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.		
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 service.		
312a.	Special pay: nuclear-trained and qualified enlisted members.		
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: foreign language proficiency pay.		
316a.	Waiver of certification requirement.		
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.	Special pay: 15-year career status bonus for members entering service on or after August 1, 1986.		

## AMENDMENTS

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 Re-

serve 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.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 907, 909, 1003 of this title; title 5 section 8440e; title 42 section 254d.

§ 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 ice-pack; 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
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) In time of war, the President may suspend the payment of incentive pay for any hazardous duty described in subsection (a).

(e) 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.

(f)(1) Under regulations prescribed by the President and to the extent provided for by ap-

propriations, 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,<sup>1</sup> "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,

<sup>1</sup> So in original. The comma probably should not appear.

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.)

AMENDMENTS

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.

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 authorized 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.

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.

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.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 301a, 304, 320, 552, 907, 1012 of this title.

**§ 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 excluding 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 com-

mence 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)(11) 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.

[(e) Repealed. Pub. L. 101-510, div. A, title XIII, §1322(c)(1), Nov. 5, 1990, 104 Stat. 1672.]

(f) The Secretary of Defense shall submit annually to Congress a report specifying for the year covered by the report—

(1) the total number of officers who were determined under subsection (a)(5) to have failed to perform the minimum prescribed operational flying duty requirements;

(2) the number of those officers who continued to receive continuous monthly incentive pay despite their failure to perform the minimum prescribed operational flying duty requirements and the extent to which they failed to perform those requirements; and

(3) the reasons for the exercise of the authority under the second sentence of subsection (a)(5) in the case of each officer specified pursuant to paragraph (2).

(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.)

AMENDMENTS

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” whenever 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.

“TABLE

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.

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.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 301, 301b, 312c 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, 2004, 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 OF BONUS.**—(1) If an officer who has entered into a written agreement under subsection (a) and has received all or part of a retention bonus under this section fails to complete the total period of active duty specified in the agreement, the Secretary concerned may require the officer to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid under this section.

(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 a written agreement entered into under subsection (a) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1).

(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.)

## AMENDMENTS

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 least 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 provi-

sions 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 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.”

## 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, 308a, 308b, 308c, 308e, 308h, or 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 NAVAL RESERVE DUTY.—Under regulations prescribed by the President and to the extent provided for by appropriations, when a member of the Naval 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.)

#### AMENDMENTS

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].”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 308 of this title.

### § 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 \$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) 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 Septem-

ber 30 of the fiscal year in which the officer enters into an agreement under subsection (a)).

(c) REFUNDS.—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

(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, United States Code, that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after November 5, 1990.

(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.)

#### AMENDMENTS

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”.

#### 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 enact-

ment 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.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 303a of this title.

#### § 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) 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) REFUNDS.—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

(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, United States Code, that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998.

(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.)

#### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsec. (d)(3), is the date of enactment of Pub. L. 105–85, which was approved Nov. 18, 1997.

#### AMENDMENTS

2002—Subsec. (a)(2). Pub. L. 107–314 substituted “\$50,000” for “\$14,000”.

#### 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 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) \$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 \$50,000 for any 12-month period.

(2) An officer is not eligible for incentive special pay under paragraph (1) unless the Sec-

retary 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 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.—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) REFUND FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—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.

(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.)

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(b) .....	37:234(b) (less introductory clause, less provisos, and less applicability to veterinarians).	
302(c) .....	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

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 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.

#### 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)."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 301d, 302f, 303a, 303b of this title; title 25 section 1616i.

**§ 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). 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.

(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.)

## AMENDMENTS

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 "a" 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.”

#### 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302f, 303a, 306 of this title.

### § 302b. Special pay: dental officers of the armed forces

(a) VARIABLE, ADDITIONAL, AND BOARD CERTIFICATION 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) Subject to subsection (b), an officer entitled to variable special pay under paragraph (2) or (3) is entitled to additional special pay for any 12-month period during which the officer is not undergoing dental internship or residency training. Such additional special pay shall be paid at the following rates:

(A) \$4,000 per year, if the officer has less than three years of creditable service.

(B) \$6,000 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.

(b) ACTIVE-DUTY AGREEMENT.—(1) An officer may not be paid additional special pay under

subsection (a)(4) 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 subsection (a)(4). 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.

(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 subsection (a)(4) shall be paid annually at the beginning of the 12-month period for which the officer is entitled to such payment.

(e) REFUND FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—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.

(f) EFFECT OF DISCHARGE IN BANKRUPTCY.—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.

(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 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.

(h) 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.)

#### AMENDMENTS

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 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.

#### 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.]

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 301e, 302f, 303a, 303b, 306 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 Services 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.)

#### 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

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 sec-

tion 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.]

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302f, 303, 303a, 303b of this title.

#### § 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, 2004, 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 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 \$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.—(1) An officer who receives a payment under subsection (a) and who fails to become and remain licensed as a registered nurse during the period for which the payment is made shall refund to the United States an amount equal to the full amount of such payment.

(2) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

(3) An obligation to reimburse the United States imposed under paragraph (1) or (2) is for all purposes a debt owed to the United States.

(4) 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 signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after November 29, 1989.

(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.)

#### AMENDMENTS

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”.

#### 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303a, 324 of this title.

#### § 302e. Special pay: nurse anesthetists

(a) SPECIAL PAY AUTHORIZED.—(1) An officer described in subsection (b)(1) who, during the period beginning on November 29, 1989, and ending on December 31, 2004, 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. The officer may be required to refund that part of the special pay corresponding to the unserved period of active duty.

(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.**—(1) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

(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 five 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 this subsection. This paragraph applies to any case commenced under title 11 after November 29, 1989.

(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.)

#### AMENDMENTS

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”.

#### 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, §625(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-153.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302f, 303a of this title.

### § 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 refund 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.)

#### AMENDMENTS

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.

#### 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 op-

eration 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.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 303a of this title.

### § 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 \$10,000.

(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) REFUND REQUIREMENT.—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.

(e) INAPPLICABILITY OF DISCHARGE IN BANKRUPTCY.—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.

(f) TERMINATION OF AGREEMENT AUTHORITY.—No agreement under this section may be entered into after December 31, 2004.

(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.)

#### 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

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”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 303a of this title.

### § 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, 2004, 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 \$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 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.—(1) An officer who receives a payment under subsection (a) and who fails to become and remain certified or licensed as a dentist during the period for which the payment is made shall refund to the United States an amount equal to the full amount of such payment.

(2) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

(3) An obligation to reimburse the United States imposed under paragraph (1) or (2) is for all purposes a debt owed to the United States.

(4) 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 signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after the date of the enactment of this section.

(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.)

#### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (d)(4), is the date of enactment of Pub. L. 104-201, which was approved Sept. 23, 1996.

#### AMENDMENTS

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”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303a, 324 of this title.

### § 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 303a 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 the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 and ending on September 30, 2004, 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.—(1) An officer who receives a payment under subsection (a) and who fails to become and remain licensed as a pharmacist during the period for which the payment is made shall refund to the United States an amount equal to the full amount of such payment.

(2) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

(3) An obligation to reimburse the United States under paragraph (1) or (2) is for all purposes a debt owed to the United States.

(4) 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 this subsection. This paragraph applies to any case commenced under title 11 after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

(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.)

#### REFERENCES IN TEXT

The date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, referred to in subssecs. (a) and (e)(4), is the date of enactment of Pub. L. 106-398, which was approved Oct. 30, 2000.

#### AMENDMENTS

2002—Subsec. (a). Pub. L. 107-314 substituted “subsection (d)” for “subsection (c)”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303a, 324 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 recognized 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

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
303(a) .....	37:234(b) (less 1st proviso, as applicable to veterinarians).	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(c). 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302f, 303a, 306 of this title.

#### § 303a. Special pay: health professionals; 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. 254f-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.

(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.)

## 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

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 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.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302, 302a, 302i, 302b of this title; title 42 section 210.

**§ 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 non-physician 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

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 320, 907 of this title.

§ 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 at a monthly rate not to exceed \$300 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.

(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.)

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, June 30, 1954, ch. 432, §729, 68 Stat. 355.
305(b) .....	37:237a.	

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

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 con-

cerned 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 907 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; or

(iii) while serving as a member of a tender-class ship (with the hull classification of submarine or destroyer); 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.)

#### AMENDMENTS

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 (4) 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.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 907 of this title.

### § 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  $\frac{1}{30}$  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  $\frac{1}{30}$  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).	
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 com-

compensation equal to  $\frac{1}{30}$  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.
307(b) .....	37:240(b).	Pub. L. 85-422, §1(8), 72 Stat. 125.
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."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 907 of this title.

**§ 307a. Special pay: assignment incentive pay**

(a) **AUTHORITY.**—The Secretary concerned may pay monthly 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.

(b) **WRITTEN AGREEMENT.**—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.

(c) **MAXIMUM RATE.**—The maximum monthly rate of incentive pay payable to a member under this section is \$1,500.

(d) **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.

(e) **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 temporary duty performed by the member pursuant to orders or absence of the member for authorized leave.

(f) **TERMINATION OF AUTHORITY.**—No agreement under this section may be entered into after December 31, 2005.

(Added Pub. L. 107-314, div. A, title VI, §616(a)(1), Dec. 2, 2002, 116 Stat. 2569.)

## 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) 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 fourteen 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;

(C) is not receiving special pay under section 312a of this title; and

(D) 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).<sup>1</sup>

may be paid a bonus as provided in paragraph (2).

(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, not to exceed six.

(B) \$60,000.

(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 16 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.

<sup>1</sup> So in original. The period probably should be a semicolon.

(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)(1) A member who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section 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.

(2) If a refund is not required under paragraph (1) in the case of a member who fails to complete a term of enlistment, the Secretary of Defense with respect to the armed forces under the Secretary's jurisdiction, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may decline to make any payment of a bonus installment under this section that is due to be paid to the member after the date on which the member fails to complete the term of enlistment for which the bonus is being paid. The Secretary of Defense and the Secretary of Homeland Security may prescribe the circumstances under which bonus installments may be terminated under this paragraph.

(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, 2004.

(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.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
308(a) .....	37:239(a). 37:239(e).	Oct. 12, 1949, ch. 681, §208; added July 16, 1954, ch. 535, §2, 68 Stat. 488;
308(b) .....	37:239(b).	July 25, 1961, Pub. L. 87-103, §1 (as applicable to §208), 75 Stat. 219.
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

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 unexpired 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 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.

#### 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."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 312a of this title.

**[§ 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.**—An enlisted member of a reserve component who—

- (1) has completed less than 14 years of total military service; and
- (2) reenlists or voluntarily extends his enlistment for a period of three years or for a period of six 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;

may be paid a bonus as provided in subsection (b).

(b) **BONUS AMOUNTS; PAYMENT.**—(1) The amount of a bonus under this section may not exceed—

- (A) \$5,000, in the case of a member who reenlists or extends an enlistment for a period of six years;
- (B) \$2,500, 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) \$2,000, 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 en-

listment 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.

(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 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).

(2) A member may not be paid more than one six-year bonus or two three-year bonuses under this section.

(3) 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 paragraph (1)(B) or 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 OF BONUS.**—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.

(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, 2004, 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.)

## AMENDMENTS

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 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."

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 enlistment in the Selected Reserve**

(a) Any person who enlists in the Selected Reserve of the Ready Reserve of an armed force, is a graduate of a secondary school, and has never previously served in an armed force may be paid a bonus as provided in subsection (b).

(b) The amount and method of payment of a bonus to be paid under subsection (a) shall be determined in accordance with regulations prescribed under subsection (c), except that the amount of such bonus may not exceed \$8,000 and—

(1) an amount not to exceed one-half of the bonus may be paid upon completion of the initial active duty for training of such person; and

(2) the remainder of the bonus may be paid in periodic installments or in a lump sum, as determined by the Secretary concerned.

(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 it is not operating as a service in the Navy.

(d) A member who fails to participate satisfactorily in training with his unit during a term of enlistment for which a bonus has been paid to him under this section shall refund an amount which bears the same ratio to the amount of the bonus which has been paid to him as the un-

expired part of such term of enlistment bears to the total length of such term of enlistment.

(e) No bonus may be paid under this section to any enlisted member who, after December 31, 2004, enlists in the Selected Reserve of the Ready Reserve of an armed force.

(f) The total amount of expenditures under this section may not exceed \$37,024,000 during fiscal year 1994.

(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.)

AMENDMENTS

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 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.

#### 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: enlisted 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, an enlisted 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 com-

pensation, in addition to the compensation to which the member is otherwise entitled, in an amount not to exceed \$10 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, 2004.

(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.)

#### 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

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 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. Special pay: bonus for reserve affiliation agreement

(a) The Secretary concerned may pay a bonus for reserve affiliation to any person—

(1) who—

(A) is serving on active duty, has 180 days or less remaining of his active duty obligation, and upon discharge or release from active duty upon the completion of such active duty obligation will have a reserve service obligation under section 651 of title 10 or under section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)); or

(B) has served on active duty for any period of time, was discharged or released from such active duty under honorable conditions, and is serving a period of reserve service obligation under section 651 of title 10 or section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)); and

(2) who meets the requirements of subsection (b).

(b) To be eligible to receive a bonus for reserve affiliation under this section, a person must—

(1) be eligible for reenlistment or for an extension of his active duty service;

(2) have completed satisfactorily any term of enlistment or period of obligated active duty service;

(3) hold and be qualified in a military specialty designated for purposes of this section in the regulations prescribed under subsection (f);

(4) have a grade for which there is a vacancy in the reserve component in which the person is to become a member;

(5) not be affiliating in a reserve component to become a Reserve, Army National Guard, or Air National Guard technician;

(6) enter into a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of the Ready Reserve of an armed force for the period of obligated reserve service such person has remaining or, if such person is on active duty, will have remaining at the time of his discharge or release from active duty; and

(7) meet all the other requirements for becoming a member of the Selected Reserve of the Ready Reserve of an armed force.

(c)(1) The amount of the bonus paid to any person under this section shall be an amount determined by multiplying up to \$50 as determined by the Secretary concerned times the number of months of reserve obligation such person has remaining or, if such person is on active duty, will have remaining at the time of his discharge or release from active duty.

(2) In the case of a person who has, or at the time of discharge or release from active duty will have, eighteen months or less reserve service obligation remaining, the Secretary concerned may pay the total amount of the bonus at the time such person signs a reserve affiliation agreement under this section. In the case of a person who has, or at the time of discharge or release from active duty will have, more than eighteen months of such service remaining, the Secretary concerned may pay one-half of the bonus at the time such person signs a reserve affiliation agreement under this section and the remaining one-half on the date of the sixth anniversary of such person's original enlistment or call to active duty.

(3) In lieu of the procedures set out in paragraph (2), the Secretary concerned may pay the bonus in monthly installments in such amounts as may be determined by the Secretary. Monthly payments under this paragraph shall begin after the first month of satisfactory service of the person and are payable only for those months in which the person serves satisfactorily. Satisfactory service shall be determined under the regulations prescribed under subsection (f).

(d)(1) A person who signs a reserve affiliation agreement under this section and who fails during the period covered by such agreement to serve satisfactorily in the Selected Reserve in

which such person agrees to serve 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 satisfactorily 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 such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after September 30, 1980.

(e) No bonus may be paid under this section to any person for a reserve obligation agreement entered into after December 31, 2004.

(f) 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.

(g) The authority in subsection (a) does not apply to the Secretary of Commerce and the Secretary of Health and Human Services.

(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.)

#### AMENDMENTS

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”.

Subsec. (f). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

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. (e). Pub. L. 106-65 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, §623(1), substituted “The Secretary concerned” for “Under regulations prescribed by the Secretary of Defense, the Secretary of a military department”.

Subsec. (b)(3). Pub. L. 105-85, §623(2), substituted “designated for purposes of this section in the regulations prescribed under subsection (f)” for “designated by the Secretary of Defense for the purposes of this section”.

Subsec. (c)(3). Pub. L. 105-85, §623(3), substituted “the regulations prescribed under subsection (f)” for “regulations prescribed by the Secretary of Defense”.

Subsec. (e). Pub. L. 105-85, §611(e), substituted “September 30, 1999” for “September 30, 1998”.

Subsecs. (f), (g). Pub. L. 105-85, §623(4), added subsecs. (f) and (g).

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. (c)(2). Pub. L. 103-160, §612(c)(1)(A), substituted “sixth anniversary” for “fifth anniversary” in second sentence.

Subsec. (c)(3). Pub. L. 103-160, §612(c)(1)(B), added par. (3).

Subsec. (e). Pub. L. 103-160, §612(c)(2), substituted “September 30, 1995” for “September 30, 1993”.

1992—Subsec. (e). Pub. L. 102-484 substituted “September 30, 1993” for “September 30, 1992”.

1991—Subsec. (a)(2). Pub. L. 102-25, §702(b)(1), struck out “of this section” after “subsection (b)”.

Subsec. (d)(2), (3). Pub. L. 102-25, §702(b)(2), struck out “of this subsection” after “paragraph (1)”.

1989—Subsec. (e). Pub. L. 101-189 substituted “September 30, 1992” for “September 30, 1990”.

1987—Subsec. (e). Pub. L. 100-180 substituted “September 30, 1990” for “September 30, 1987”.

1985—Subsec. (c)(1). Pub. L. 99-145, §645(a)(1), substituted “up to \$50 as determined by the Secretary concerned” for “\$25”.

Subsec. (e). Pub. L. 99-145, §645(a)(2), substituted “September 30, 1987” for “September 30, 1985”.

1981—Subsec. (e). Pub. L. 97-86 substituted “September 30, 1985” for “September 30, 1981”.

#### 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

Section 645(b) of Pub. L. 99-145 provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1985.”

#### EFFECTIVE DATE

Agreements under this section not to be entered into before Oct. 1, 1980, see section 805(a)(3) of Pub. L. 96-342, set out as a note under section 308d of this title.

#### COVERAGE OF PERIOD OF LAPSED AUTHORITY

Section 612(g) of Pub. L. 103-160 provided that:

“(1) In the case of a person described in paragraph (2) who executes a reserve affiliation agreement under section 308e of title 37, United States Code, during the 90-day period beginning on the date of the enactment of this Act [Nov. 30, 1993], the Secretary of the military department concerned may treat the agreement for purposes of the bonus authorized under such section as having been executed and accepted on the first date on which the person would have qualified for such an agreement had the amendment made by subsection

(c)(2) [amending this section] taken effect on October 1, 1993.

“(2) A person referred to in paragraph (1) is a person described in section 308e(a) of title 37, United States Code, who, during the period beginning on October 1, 1993, and ending on the date of the enactment of this Act, would have qualified for a reserve affiliation agreement under such section had the amendment made by subsection (c)(2) taken effect on October 1, 1993.”

[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.]

**[§ 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 \$1,000.

(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 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.

(e) An obligation to reimburse the United States imposed under subsection (d) is, for all purposes, a debt owed to the United States.

(f) 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.

(g) 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.

(h) A bonus may not be paid under this section to any person for an enlistment after September 30, 1992.

(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.)

AMENDMENTS

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 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.”

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 \$1,500, in the case of a person who enlists for a period of six years; and

(B) may not exceed \$750 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.

(c) REPAYMENT OF BONUS.—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.

(d) TREATMENT OF REIMBURSEMENT OBLIGATION.—An obligation to reimburse the United States imposed under subsection (c) is, for all purposes, a debt owed to the United States.

(e) EFFECT OF BANKRUPTCY.—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.

(f) 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.

(g) 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, 2004.

(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.)

## AMENDMENTS

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 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.”

## 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 completed a military service obligation, but has less than 14 years of total military service, and received an honorable discharge at the conclusion of that military service obligation.

(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.

(D) The person has not previously been paid a bonus (except under this section) for enlistment, reenlistment, or extension of enlistment in a reserve component.

(b) **BONUS AMOUNTS; PAYMENT.**—(1) The amount of a bonus under this section may not exceed—

(A) \$8,000, in the case of a person who enlists for a period of six years;

(B) \$4,000, in the case of a person who, having never received a bonus under this section, enlists for a period of three years; and

(C) \$3,500, 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.

(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 OF BONUS.**—(1) 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 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 relation to the amount of the bonus paid to such person as the period that such person failed to serve satisfactorily 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) Under regulations prescribed pursuant to subsection (e), the Secretary concerned may remit or cancel the whole or any part of an obligation to reimburse the United States imposed under paragraph (1).

(4) 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 shall not discharge the person receiving such bonus payment from the debt arising under paragraph (1). This subsection<sup>1</sup> applies to any case commenced under title 11 after September 30, 1985.

(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, 2004.

(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

<sup>1</sup> So in original. Probably should be "paragraph".

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.)

## AMENDMENTS

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 subssecs. (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 subssecs. (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 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.”

## 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 sec-

tion, see section 612(j)(2) of Pub. L. 102-484, set out as a note under section 301b of this title.

### § 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 \$20,000. The bonus may be paid in a single lump sum or in periodic installments.

(b) REPAYMENT OF BONUS.—(1) A member of the armed forces who voluntarily, or because of the member's misconduct, does not complete the term of enlistment for which a bonus was paid under this section, or a member who is not technically qualified in the skill for which the bonus was paid, if any (other than a member who is not qualified because of injury, illness, or other impairment not the result of the member's misconduct), shall refund to the United States that percentage of the bonus that the unexpired part of member's enlistment is of the total enlistment 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 enlistment for which a bonus was paid under this section does not discharge the person receiving the bonus from the debt arising under paragraph (1).

(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, 2004.

(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.)

#### 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

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 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.”

### § 310. Special pay: duty subject to hostile fire or imminent danger

(a) ELIGIBILITY AND SPECIAL PAY AMOUNT.—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—

(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) CONTINUATION DURING HOSPITALIZATION.—A member covered by subsection (a)(2)(C) who is hospitalized for the treatment of the injury or wound may be paid special pay under this section for not more than three additional months during which the member is so hospitalized.

(c) LIMITATIONS AND ADMINISTRATION.—(1) 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.

(2) 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.

(d) 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.

(e) TEMPORARY INCREASE IN AUTHORIZED AMOUNT OF SPECIAL PAY.—For the period beginning on October 1, 2003, and ending on December 31, 2004, the rate of pay authorized by subsection (a) shall be increased to \$225.

(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.)

#### AMENDMENTS

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 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].”

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 411a of this title; title 10 sections 701, 703, 1079, 1133; title 20 section

1087ee; title 24 section 412; title 26 section 112; title 36 section 230103; title 42 section 1382a.

**§ 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) Under regulations to be prescribed by the Secretary of the Navy, 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 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, in addition to any other period of obligated active service,

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 \$25,000 for each year of the active-service agreement. The Secretary of the Navy 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. Upon acceptance of the agreement by the Secretary or his designee, the total amount payable 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 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, with the number of installments being equal to the number of years covered by the contract plus one.

(b) 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.

(c) 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.

(d)(1) An officer who is performing obligated service under an agreement under subsection (a) may, if the amount that may be paid under such subsection is higher than at the time the officer executed such agreement, execute a new agreement under that 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 end of 26 years of commissioned service. 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.

(e) The provisions of this section shall be effective only in the case of officers who, on or before December 31, 2004, 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.)

#### AMENDMENTS

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 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, 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 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.”

#### 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”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 312c of this title.

#### § 312a. Special pay: nuclear-trained and qualified enlisted members

(a) Under regulations prescribed by the Secretary of Defense, an enlisted member of the naval service who—

(1) is entitled to basic pay;

(2) is currently qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; and

(3) has completed at least six, but not more than ten, years of active duty and executes, when eligible, a reenlistment agreement for not less than two years;

may upon acceptance of the reenlistment agreement by the Secretary of the Navy or his designee, 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 \$15,000, whichever is the lesser amount.

(b) Bonus payments authorized under this section may be paid in either a lump sum or in installments.

(c) An amount paid to a member under subsection (a) is in addition to all other compensation to which he is entitled and does not count

against the limitation prescribed by section 308(a) of this title concerning the total amount of reenlistment bonus that may be paid.

(d) Under regulations prescribed by the Secretary of the Navy, refunds, on a pro rata basis, of sums paid under subsection (a) may be required, and further payments terminated, if the member who has received the payment fails to complete his reenlistment contract or fails to maintain his technical qualification for duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants.

(e) Provisions of this section shall be effective only in the cases of members who, on or before June 30, 1975, execute the required written agreement to remain in active service.

(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.)

#### HISTORICAL AND REVISION NOTES

##### 1982 ACT

This amends 37:312a(c) to reflect the amendment made to 37:308 by section 2 of the Armed Forces Enlisted Personnel Bonus Revision Act of 1974 (Pub. L. 93-277, May 10, 1974, 88 Stat. 119).

##### AMENDMENTS

1991—Subsecs. (c), (d). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

1982—Subsec. (c). Pub. L. 97-295 substituted “section 308(a)” for “section 308(c)” and struck out provision that a member receiving payment under this section is not entitled to any further payments under section 308(g) of this title.

##### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 308 of this title.

### § 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 \$20,000 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) 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.

(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, 2004, 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.)

##### AMENDMENTS

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 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 312(b)(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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 324 of this title.

### § 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 \$10,000 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, 2004.

(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.)

#### AMENDMENTS

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 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 OF BONUS.—(1) 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 refund to the United States the unearned portion of the bonus. The unearned portion of the bonus is the amount by which the amount of the bonus paid to the member exceeds the amount determined by multiplying the amount of the bonus paid by the percent determined by dividing 12 into the number of full months during which the member performed the duty in the 12-month period.

(2) The Secretary concerned may waive the obligation of a member to reimburse the United States under paragraph (1) if the Secretary determines that conditions and circumstances warrant the waiver.

(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of the agreement does not discharge the member signing the agreement from a debt arising under the agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998.

(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.)

#### 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

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.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 411g of this title; title 10 section 705.

### § 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<sup>1</sup> 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)(1) An officer who does not serve on active duty for the entire period for which he has been paid under subsection (b) shall refund that percentage of the payment that the unserved part of the period is of the total period for which the payment was made. Nothing in this subsection shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion by a regular officer of the total period of obligated service specified in an agreement under subsection (b) does not obligate the President to accept a resignation submitted by that officer.

(2) Subject to paragraph (3), and obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

<sup>1</sup> So in original. Probably should be “an”.

(4) 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 member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after September 30, 1981.

(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.)

#### AMENDMENTS

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.”

### § 316. Special pay: foreign language proficiency pay

(a) A member of the uniformed services—

(1) who is entitled to basic pay under section 204 of this title;

(2) who has been certified by the Secretary concerned within the past 12 months to be proficient in a foreign language identified by the Secretary concerned as being a language in which it is necessary to have personnel proficient because of national defense or public health considerations; and

(3) who—

(A) is qualified in a uniformed services specialty requiring such proficiency;

(B) received training, under regulations prescribed by the Secretary concerned, designed to develop such proficiency;

(C) is assigned to duties requiring such a proficiency; or

(D) is proficient in a foreign language for which the uniformed service may have a critical need (as determined by the Secretary concerned),

may be paid special pay under this section in addition to any other pay or allowance to which the member is entitled.

(b) The monthly rate for special pay under subsection (a) shall be determined by the Secretary concerned and may not exceed \$300.

(c)(1) Under regulations prescribed by the Secretary concerned, when a member of a reserve component who is entitled to compensation under section 206 of this title meets the requirements for special pay authorized in subsection (a), except the requirement prescribed in subsection (a)(1), the member may be paid an increase in compensation equal to one-thirtieth of the monthly special pay authorized under subsection (b) for a member who is entitled to basic pay under section 204 of this title.

(2) A member eligible for increased compensation under paragraph (1) shall be paid such increase—

(A) for each regular period of instruction, or period of appropriate duty, in which he is engaged for at least two hours, including instruction received or duty performed on a Sunday or holiday; and

(B) for each period of performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary concerned may prescribe.

(3) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

(d) 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.)

#### AMENDMENTS

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."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 316a of this title.

**§ 316a. Waiver of certification requirement**

(a) **CERTIFICATION INTERRUPTED BY CONTINGENCY OPERATION.**—(1) A member of the armed forces described in subsection (b) shall be paid special pay under section 316 of this title for the active duty performed by that member during the period described in paragraph (2) if—

(A) the member was assigned to duty in connection with a contingency operation;

(B) the Secretary concerned (under regulations prescribed by the Secretary of Defense) determines that the member was unable to schedule or complete the certification required for eligibility for the special pay under that section because of that duty;

(C) except for not meeting the certification requirement in that section, the member was otherwise eligible for that special pay for that active duty; and

(D) the member completes the certification requirement specified in that section before the end of the period established for the member in subsection (c).

(2) The period for which a member may be paid special pay for active duty pursuant to paragraph (1) is the period beginning on the date on which the member was assigned to the duty referred to in subparagraph (A) of that paragraph and ending on the date of the member's certification referred to in subparagraph (D) of that paragraph.

(b) **ELIGIBLE MEMBER DESCRIBED.**—A member of the armed forces referred to in subsection (a) is a member who meets the requirement referred to in section 316(a)(3) of this title.

(c) **PERIOD FOR CERTIFICATION.**—The period referred to in subparagraph (D) of subsection (a)(1) with respect to a member of the armed forces is the 180-day period beginning on the date on

which the member was released from the duty referred to in that subsection. The Secretary concerned may extend that period for a member in accordance with regulations prescribed by the Secretary of Defense.

(Added Pub. L. 102-190, div. A, title VI, § 636(a), Dec. 5, 1991, 105 Stat. 1382.)

## OPERATION DESERT STORM DUTY ASSIGNMENT

Pub. L. 102-25, title III, § 306, 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 obtains a certification of foreign language proficiency before the end of the period established for the member in subsection (c) shall be paid foreign language proficiency pay under section 316 of title 37, United States Code, for active duty performed after August 2, 1990, and before the date of that certification if the Secretary of Defense determines that the member was unable to schedule or complete that certification 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 on active duty who, except for subsection (a)(2) of that section, was otherwise eligible for special pay under that section during the duty assignment in connection with Operation Desert Storm.

"(c) **PERIOD FOR CERTIFICATION.**—The period referred to in subsection (a) for completion of certification of foreign language proficiency 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."

**§ 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 OF BONUS.**—(1) If an officer who has entered into a written agreement under subsection (a) and who has received all or part of a bonus under this section fails to complete the total period of active duty specified in the agreement, the Secretary concerned may require the officer to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid under this section.

(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 a written agreement entered into under subsection (a) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after January 1, 1991.

(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.)

#### 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."

### § 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.**—(1) If an officer who has entered into an agreement under subsection (b) and has received all or part of a retention bonus under this section fails to complete the total period of active duty in special warfare service as specified in the agreement, the Secretary concerned may require the officer to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid the officer under this section.

(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 five years after the termination of an agreement entered into under subsection (b) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1).

(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.)

#### AMENDMENTS

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.”

### § 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 Naval 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.**—(1) If 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 fails to complete the total period of active duty as a department head on a surface vessel specified in the agreement, the Secretary of the Navy may require the officer to repay the United States, to the extent that the Secretary of the Navy determines conditions and circumstances warrant, any or all sums paid under this section.

(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 five years after the ter-

mination of an agreement entered into under subsection (b) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1).

(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.)

#### AMENDMENTS

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.”

### § 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.—(1) If 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 fails to complete the total period of active duty specified in the agreement, the Secretary concerned may require the officer to repay the United States, to the extent that the Secretary determines conditions and circumstances warrant, any or all sums paid under this section.

(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 five years after the termination of an agreement entered into under subsection (b) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1).

(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.)

#### 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."

### § 322. 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 OF BONUS.—(1) If a person paid a bonus under this section fails to complete a period of active duty beginning on the date on which the election of the person under subsection (a)(1) is received and ending on the date on which the person completes 20 years of active-duty service as described in subsection (a)(2), the person shall refund to the United

States the amount that bears the same ratio to the amount of the bonus payment as the uncompleted part of that period of active-duty service bears to the total period of such service.

(2) Subject to paragraph (3), an obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) 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 member signing such agreement from a debt arising under the agreement or this subsection.

(Added Pub. L. 106-65, div. A, title VI, § 642(a), Oct. 5, 1999, 113 Stat. 662; amended Pub. L. 107-107, div. A, title VI, § 620(a), Dec. 28, 2001, 115 Stat. 1138.)

#### AMENDMENTS

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.

#### 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 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.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 1401a, 1409, 1410.

### § 323. Special pay: retention incentives for members qualified in a critical military skill

(a) RETENTION BONUS AUTHORIZED.—An officer or enlisted member of the armed forces who is serving on active duty and is qualified in a designated critical military skill 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

(2) in the case of an enlisted member, the member reenlists or voluntarily extends the member's enlistment for a period of at least one year.

(b) DESIGNATION OF CRITICAL SKILLS.—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.

(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 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

(B) will complete the member's twenty-fifth year of active duty before the end of the period of active duty for which the bonus is being offered.

(2) 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.

(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 OF BONUS.—(1) 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, the Secretary of Defense, and the Secretary of Homeland Security with respect to members of the Coast Guard when it is not operating as a service in the Navy, may require the member to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid under this section.

(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 a written agreement entered into under subsection (a) does not discharge the member from a debt arising under paragraph (2).

(h) ANNUAL REPORT.—Not later than February 15 of each year, the Secretary of Defense and the Secretary of Transportation 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 qualified in the critical military skills for which the bonuses were offered; 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, 2004, 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; 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.)

#### AMENDMENTS

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 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 of title 10, United States Code, as added by subsection (a), 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.

#### § 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 FOR FAILURE TO COMMENCE OR COMPLETE OBLIGATED SERVICE.**—(1) An individual who, after having received all or part of the accession bonus under an agreement referred to in subsection (a), fails to accept a commission or an appointment as an officer or to commence or complete the total period of active duty service specified in the agreement shall repay to the United States the amount that bears the same ratio to the total amount of the bonus authorized for such person as the unserved part of the period of agreed active duty service bears to the total period of the agreed active duty service. However, the amount required to be repaid by the individual may not exceed the amount of the accession bonus that was paid to the individual.

(2) Subject to paragraph (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) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

(3) The Secretary concerned may waive, in whole or in part, the repayment requirement under paragraph (1) on a case-by-case basis if the Secretary concerned determines that repayment would be against equity and good conscience or would be contrary to the best interests of the United States.

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2004.

(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.)

#### AMENDMENTS

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”.

#### § 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 FOR FAILURE TO COMPLETE OBLIGATED SERVICE.—(1) If a person fails to 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 refund to the United States the amount that bears the same ratio to the total amount paid for the person (as computed under subsection (e)) for that particular commitment as the uncompleted part of the period of qualifying service bears to the total period of the qualifying service for which obligated.

(2) Subject to paragraph (3), an obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an enlistment or other agreement under this section does not discharge the person signing such enlistment or other agreement from a debt arising under the enlistment or agreement, respectively, or this subsection.

(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.)

AMENDMENTS

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.”

**§ 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 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—

- (1) the member is entitled to basic pay; and
- (2) at the time the agreement is executed, the member is serving in—

(A) pay grade E–6, with not more than 10 years of service computed under section 205 of this title; or

(B) 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.

(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 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 OF BONUS.—(1) A member who receives a bonus under this section and who, vol-

untarily or because of misconduct, fails to serve in such military occupational specialty for the period specified in the agreement executed under subsection (a) shall refund to the United States an amount that bears the same ratio to the bonus amount paid to the member as the unserved part of such period bears to the total period agreed to be served.

(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 five years after the termination of the agreement for which a bonus was paid under this section shall not discharge the person signing such agreement from the debt arising under paragraph (1).

(4) Under regulations prescribed pursuant to subsection (f), the Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(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, 2006.

(Added Pub. L. 108–136, div. A, title VI, §625(a), Nov. 24, 2003, 117 Stat. 1506.)

CHAPTER 7—ALLOWANCES

Sec.	Definitions.
401.	Basic allowance for subsistence.
402.	Supplemental subsistence allowance for low-income members with dependents.
402a.	Basic allowance for housing.
403.	[Repealed.]
[403a.]	
403b.	Cost-of-living allowance in the continental United States.
404.	Travel and transportation allowances: general.
404a.	Travel and transportation allowances: temporary lodging expenses.
404b.	Travel and transportation allowances: lodging expenses at temporary duty location for members on authorized leave.
405.	Travel and transportation allowances: per diem while on duty outside the United States or in Hawaii or Alaska.
405a.	Travel and transportation allowances: departure allowances.
406.	Travel and transportation allowances: dependents; baggage and household effects.
406a.	Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified.
406b.	Travel and transportation allowances: members of the uniformed services attached to a ship overhauling or inactivating.
406c.	Travel and transportation allowances: members assigned to a vessel under construction.
407.	Travel and transportation allowances: dislocation allowances. <sup>1</sup>
408.	Travel and transportation allowances: travel within limits of duty station.

<sup>1</sup> So in original. Does not conform to section catchline.