

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 “, or” at end of par. (1)(A), period for semicolon at end of par. (1)(B), and period for “; and” at end of par. (2).

1980—Pub. L. 96-284 substituted “Each” for “(a) In addition to any other basic pay, special pay, incentive pay or allowance to which he is entitled, each”, struck out “beginning on or after October 1, 1977” after “active duty”, struck out subsec. (b) which prohibited inclusion of active duty monthly special pay in computation of amount of increase in pay authorized in any other provision of this title or in computation of retired pay or severance pay, and struck out subsec. (c) which provided that no special pay be paid for any month after September 1980.

1978—Subsec. (c). Pub. L. 95-485 substituted “September 1980” for “September 1978”.

1977—Subsec. (a). Pub. L. 95-114 amended subsec. (a) to provide for the reinstatement of special pay provisions for optometrists for each month on active duty beginning on or after Oct. 1, 1977.

Subsecs. (b), (c). Pub. L. 95-114 reenacted subsec. (b) without change and added subsec. (c).

1973—Subsec. (a). Pub. L. 93-64 substituted “July 1, 1975” for “July 1, 1973” wherever appearing.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Section 4 of Pub. L. 95-114 provided that: “The amendments made by sections 2 and 3 of this Act [amending this section and section 303 of this title] become effective on October 1, 1977.”

#### EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-64 effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as a note under section 401 of this title.

#### EFFECTIVE DATE

Section 209 of title II of Pub. L. 92-129 provided that: “The foregoing provisions of this title [enacting this section and section 428 of this title and amending sections 203 and 403 of this title and sections 2204 and 2207 of Title 50, Appendix, War and National Defense] shall become effective on October 1, 1971, except that section 203 [enacting section 308a of this title] shall become effective on such date as shall be prescribed by the Secretary of Defense, but not earlier than February 1, 1971, and section 206 [amending section 2203 of Title 50, Appendix] shall become effective July 1, 1971.”

#### 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.