

§ 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 regu-

lations prescribed under section 303a(a) of this title, an officer who is entitled to variable special pay under subsection (a)(2) may be paid incentive special pay for any twelve-month period during which the officer is not undergoing medical internship or initial residency training. The amount of incentive special pay paid to an officer under this subsection may not exceed \$75,000 for any 12-month period.

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

(c) ACTIVE-DUTY AGREEMENT.—(1) An officer may not be paid additional special pay under subsection (a)(4) or incentive special pay under subsection (b) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

(2) Under regulations prescribed by the Secretary of Defense under section 303a(a) of this title, the Secretary of the military department concerned may terminate at any time an officer's entitlement to the special pay authorized by subsection (a)(4) or (b)(1). If such entitlement is terminated, the officer concerned shall be subject to the repayment provisions of section 303a(e) of this title.

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

(1) whether an officer is undergoing medical internship or initial residency training for purposes of subsections (a)(2)(A), (a)(2)(B), (a)(4), and (b)(1); and

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

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

(f) REPAYMENT.—An officer who does not complete the period for which the payment was made under subsection (a)(4) or subsection (b)(1) shall be subject to the repayment provisions of section 303a(e) of this title.

(g) DETERMINATION OF CREDITABLE SERVICE.—For purposes of this section, creditable service of an officer is computed by adding—

(1) all periods which the officer spent in medical internship or residency training during which the officer was not on active duty; and

(2) all periods of active service in the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

(h) RESERVE MEDICAL OFFICERS SPECIAL PAY.—(1) A reserve medical officer described in paragraph (2) is entitled to special pay at the rate of \$450 a month for each month of active duty, in-

cluding active duty in the form of annual training, active duty for training, and active duty for special work.

(2) A reserve medical officer referred to in paragraph (1) is a reserve officer who—

(A) is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer; and

(B) is on active duty under a call or order to active duty for a period of less than one year.

(i) EFFECT OF DISCHARGE IN BANKRUPTCY.—A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under subsection (c)(2) or (f). This paragraph applies to any case commenced under title 11 after September 30, 1985.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 464; Pub. L. 88-2, § 5, Mar. 28, 1963, 77 Stat. 4; Pub. L. 88-132, § 4, Oct. 2, 1963, 77 Stat. 212; Pub. L. 89-718, § 53, Nov. 2, 1966, 80 Stat. 1122; Pub. L. 90-40, § 5, June 30, 1967, 81 Stat. 105; Pub. L. 92-129, title I, § 104, Sept. 28, 1971, 85 Stat. 355; Pub. L. 93-64, title II, § 201, July 9, 1973, 87 Stat. 149; Pub. L. 93-274, § 1(1), May 6, 1974, 88 Stat. 94; Pub. L. 96-284, § 2(a), June 28, 1980, 94 Stat. 587; Pub. L. 96-513, title IV, § 415, Dec. 12, 1980, 94 Stat. 2906; Pub. L. 99-145, title VI, § 640, Nov. 8, 1985, 99 Stat. 652; Pub. L. 99-661, div. A, title XIII, §§ 1342(d), 1343(b)(1), Nov. 14, 1986, 100 Stat. 3991, 3995; Pub. L. 100-180, div. A, title VII, § 716(a), Dec. 4, 1987, 101 Stat. 1113; Pub. L. 101-189, div. A, title VII, § 702(a)-(f), Nov. 29, 1989, 103 Stat. 1468, 1469; Pub. L. 101-510, div. A, title VI, § 612, Nov. 5, 1990, 104 Stat. 1577; Pub. L. 106-398, § 1 [[div. A], title VI, § 625(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-153; Pub. L. 107-314, div. A, title VI, § 615(c), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 109-163, div. A, title VI, § 687(b)(4), Jan. 6, 2006, 119 Stat. 3328; Pub. L. 110-181, div. A, title VI, § 615(a), Jan. 28, 2008, 122 Stat. 150.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
302(a)	37:234(a). 37:234(b) (introductory clause and last proviso, less applicability to veterinarians).	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) (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

2008—Subsec. (b)(1). Pub. L. 110-181 substituted “\$75,000” for “\$50,000”.

2006—Subsec. (c)(2). Pub. L. 109-163, § 687(b)(4)(A), added second sentence and struck out former second sentence which read as follows: “If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period of active duty that he served, and he may be required to refund any amount in excess of that entitlement.”

Subsec. (f). Pub. L. 109-163, § 687(b)(4)(B), added subsec. (f) and struck out heading and text of former subsec. (f). Text read as follows: “An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (a)(4) or (b)(1) shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.”

2002—Subsec. (b)(1). Pub. L. 107-314 inserted second sentence and struck out former second sentence which read as follows: “No payment to an officer under this subsection may exceed \$16,000 for any twelve-month period beginning in fiscal year 1990, \$22,000 for any twelve-month period beginning in fiscal year 1991, \$29,000 for any twelve-month period beginning in fiscal year 1992, and \$36,000 for any twelve-month period beginning after fiscal year 1992.”

2000—Subsec. (h)(1). Pub. L. 106-398 inserted before period at end “, including active duty in the form of annual training, active duty for training, and active duty for special work”.

1990—Subsec. (a)(3). Pub. L. 101-510 substituted “\$7,000” for “\$1,000”.

1989—Subsec. (a). Pub. L. 101-189, § 702(f)(1), inserted heading.

Subsec. (a)(2). Pub. L. 101-189, § 702(f)(9), struck out “of this subsection” after “paragraph (1)” in introductory provisions.

Subsec. (a)(2)(C) to (I). Pub. L. 101-189, § 702(a), in subpar. (C), substituted “\$12,000” for “\$10,000”, in subpar. (D), substituted “\$11,500” for “\$9,500”, in subpar. (E), substituted “\$11,000” for “\$9,000”, in subpar. (F), substituted “\$10,000” for “\$8,000”, in subpar. (G), substituted “\$9,000” for “\$7,000”, in subpar. (H), substituted “\$8,000” for “\$6,000”, and in subpar. (I), substituted “\$7,000” for “\$5,000”.

Subsec. (a)(3). Pub. L. 101-189, § 702(f)(9), struck out “of this subsection” after “paragraph (1)”.

Subsec. (a)(4). Pub. L. 101-189, § 702(f)(9), struck out “of this section” after “subsection (c)” and “of this subsection” after “paragraph (2) or (3)”.

Pub. L. 101-189, § 702(b), struck out subpar. (A) designation, substituted “is entitled to additional special pay of \$15,000” for “who has less than ten years of creditable service is entitled to additional special pay of \$9,000”, and struck out subpar. (B) which read as follows: “Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has ten or more years of creditable service is entitled to additional special pay of \$10,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.”

Subsec. (a)(5). Pub. L. 101-189, § 702(f)(9), struck out “of this subsection” after “paragraph (2) or (3)”.

Pub. L. 101-189, § 702(c), in subpar. (A), substituted “\$2,500” for “\$2,000”, in subpar. (B), substituted “\$3,500” for “\$2,500”, in subpar. (C), substituted “\$4,000” for “\$3,000”, in subpar. (D), substituted “\$5,000” for “\$4,000”, and in subpar. (E), substituted “\$6,000” for “\$5,000”.

Subsec. (b). Pub. L. 101-189, § 702(f)(2), inserted heading.

Subsec. (b)(1). Pub. L. 101-189, §702(f)(9), struck out “of this section” after “subsection (c)” and “subsection (a)(2)” and struck out “of this subsection” after “paragraph (2)”.

Pub. L. 101-189, §702(d), substituted “\$16,000 for any twelve-month period beginning in fiscal year 1990, \$22,000 for any twelve-month period beginning in fiscal year 1991, \$29,000 for any twelve-month period beginning in fiscal year 1992, and \$36,000 for any twelve-month period beginning after fiscal year 1992” for “\$8,000 for any twelve-month period unless the Secretary concerned determines that the officer is qualified and serving in a health profession skill which has been designated by the Secretary concerned as a critically needed wartime skill”.

Subsec. (b)(2). Pub. L. 101-189, §702(f)(9), struck out “of this subsection” after “paragraph (1)”.

Subsec. (c). Pub. L. 101-189, §702(f)(9), struck out “of this section” after “subsection (a)(4)” and “subsection (b)” in par. (1) and after “or (b)(1)” in par. (2).

Pub. L. 101-189, §702(f)(3), inserted heading.

Subsec. (d). Pub. L. 101-189, §702(f)(9), struck out “of this section” after “and (b)(1)” in par. (1) and after “subsection (a)(5)” in par. (2).

Pub. L. 101-189, §702(f)(4), inserted heading.

Subsec. (e). Pub. L. 101-189, §702(f)(9), struck out “of this section” after “subsection (a)” and “or (b)(1)”.

Pub. L. 101-189, §702(f)(5), inserted heading.

Subsec. (f). Pub. L. 101-189, §702(f)(9), struck out “of this section” after “or (b)(1)”.

Pub. L. 101-189, §702(f)(6), inserted heading.

Subsec. (g). Pub. L. 101-189, §702(f)(7), inserted heading.

Subsec. (h). Pub. L. 101-189, §702(e), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows:

“(1) Any reserve officer who is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer—

“(A) who has served on active duty as a medical officer for not less than one year; and

“(B) who is on active duty under a call or order to active duty for a period of less than one year; is entitled to special pay in accordance with this subsection.

“(2) An officer described in paragraph (1) of this subsection is entitled to special pay at the rate of—

“(A) \$100 a month for each month of active duty, if he has not completed two years of active duty; or

“(B) \$350 a month for each month of active duty, if he has completed at least two years of active duty.”

Subsec. (i). Pub. L. 101-189, §702(f)(9), struck out “of this section” after “or (f)”.

Pub. L. 101-189, §702(f)(8), inserted heading.

1987—Subsec. (b)(1). Pub. L. 100-180, §716(a)(1), (2), struck out “in an amount not to exceed \$8,000” after “incentive special pay” and inserted at end “No payment to an officer under this subsection may exceed \$8,000 for any twelve-month period unless the Secretary concerned determines that the officer is qualified and serving in a health profession skill which has been designated by the Secretary concerned as a critically needed wartime skill.”

Subsec. (b)(3). Pub. L. 100-180, §716(a)(3), struck out par. (3) which read as follows: “The amount that may be paid for incentive special pay under this subsection in any fiscal year may not exceed an amount equal to 6 percent of the total amount paid in such year for special pay under subsection (a) of this section and paragraph (1) of this subsection.”

1986—Subsec. (h)(1)(B). Pub. L. 99-661, §1342(d), amended subpar. (B) generally, substituting “period of less than one year” for “period of not less than one year”.

Subsec. (i). Pub. L. 99-661, §1343(b)(1), substituted “subsection (c)(2) or (f) of this section” for “paragraph (1) of this subsection”.

1985—Subsec. (h)(1)(B). Pub. L. 99-145, §640(1), substituted “who is” for “is not”.

Subsec. (i). Pub. L. 99-145, §640(2), added subsec. (i).

1980—Pub. L. 96-284, in revising text, added subsecs. (a) to (g) provisions covering special pay for medical officers of the armed forces, and struck out former provision for special pay of physicians in the Army, Navy, Air Force, and Public Health Service, amounting to \$100 or \$350 a month for each month of active duty in cases of active duty in named category of less than two years or two years or more of duty, now covered as to Public Health Service in section 302c of this title, and struck out prohibition against inclusion of active duty monthly special pay in computation of amount of increase in pay authorized in any other provision of this title or in computation of retired pay or severance pay.

Subsec. (h). Pub. L. 96-513 added subsec. (h).

1974—Pub. L. 93-274 reduced for uniformed services physicians the present four steps of special pay, which require the completion of ten years of active duty before attaining eligibility for the \$350 per month maximum down to two steps, with the maximum being reached upon completion of two years of active duty, and repealed provisions relating to special pay for dentists. See section 302b of this title.

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

1971—Subsec. (a). Pub. L. 92-129 substituted “July 1, 1973” for “July 1, 1971” wherever appearing.

1967—Subsec. (a). Pub. L. 90-40 substituted “July 1, 1971” for “July 1, 1967” wherever appearing.

1966—Subsec. (b). Pub. L. 89-718 substituted “or” for “and” at end of par. (3).

1963—Subsec. (a). Pub. L. 88-2 substituted “July 1, 1967” for “July 1, 1963” wherever appearing.

Subsec. (b)(3), (4). Pub. L. 88-132 increased monthly special pay of officers completing at least six years of active duty from \$200 to \$250 in par. (3), and officers completing at least 10 years of active duty from \$250 to \$350 in par. (4).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-181 applicable with respect to agreements entered into under section 301d(a) or 302b(c) of this title on or after Jan. 28, 2008, see section 615(c) of Pub. L. 110-181, set out as a note under section 301d of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title VII, §702(g), Nov. 29, 1989, 103 Stat. 1469, 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.

Pub. L. 96-284, §8, June 28, 1980, 94 Stat. 594, provided that: “The amendments made by sections 2 and 3 [amending 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

Pub. L. 93-274, § 2, May 6, 1974, 88 Stat. 96, as amended by Pub. L. 94-273, § 2(18), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94-361, title III, § 305, July 14, 1976, 90 Stat. 926; Pub. L. 95-114, § 1, Sept. 30, 1977, 91 Stat. 1046; Pub. L. 95-485, title VIII, § 801(a), Oct. 20, 1978, 92 Stat. 1619, which provided that the amendments made by this Act, enacting sections 302b and 313 of this title and amending this section and section 311 of this title, become effective on June 1, 1974, with the authority for the special pay provided by the amendments made by the first section of this Act, enacting sections 302b and 313 of this title and amending this section and section 311 of this title, to expire on Sept. 30, 1980, was repealed by Pub. L. 96-284, § 4(e), June 28, 1980, 94 Stat. 592.

EFFECTIVE DATE OF 1973 AMENDMENT

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

EFFECTIVE DATE OF 1963 AMENDMENT

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

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109-163, see section 687(f) of Pub. L. 109-163, set out as a note under section 510 of Title 10, Armed Forces.

APPLICATION OF INCREASE

In case of amendment by section 615 of Pub. L. 107-314 to increase maximum amount of special pay or bonus that may be paid during any 12-month period, the amended limitation is applicable to 12-month periods beginning after Sept. 30, 2002, see section 615(i) of Pub. L. 107-314, set out as a note under section 301d of this title.

PROHIBITION ON USE OF APPROPRIATIONS TO PAY BONUSES TO CERTAIN REGULAR OR RESERVE MEDICAL OFFICERS OF PUBLIC HEALTH SERVICE

Pub. L. 102-394, title II, § 207, Oct. 6, 1992, 106 Stat. 1811, provided that: "None of the funds made available by this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health or the Substance Abuse and Mental Health Services Administration."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-170, title II, § 207, Nov. 26, 1991, 105 Stat. 1127.

Pub. L. 101-517, title II, § 207, Nov. 5, 1990, 104 Stat. 2209.

Pub. L. 101-166, title II, § 208, Nov. 21, 1989, 103 Stat. 1177.

Pub. L. 100-202, § 101(h) [title II, § 208], Dec. 22, 1987, 101 Stat. 1329-256, 1329-274.

MEDICAL OFFICER RETENTION BONUS

Pub. L. 101-189, div. A, title VII, § 703(e)-(g), Nov. 29, 1989, 103 Stat. 1470, 1471, 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

Pub. L. 96-284, § 7, June 28, 1980, 94 Stat. 593, 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)

tive date) had such section continued in effect, shall be paid basic pay and special pay under section 302 of such title (as in effect on and after the effective date of the amendments made by this Act) in a total amount not less than the total amount of the basic pay (as in effect on the day before such date) and special pay applicable (or which would have been applicable) to such officer under sections 302, 311, and 313 of such title (as in effect on the day before such date and computed on the rates of basic pay as in effect on the day before such date)."

§ 302a. Special pay: optometrists

(a) REGULAR SPECIAL PAY.—Each of the following officers is entitled to special pay at the rate of \$100 a month for each month of active duty:

(1) A commissioned officer—

(A) of the Regular Army, Regular Navy, or Regular Air Force who is designated as an optometry officer; or

(B) who is an optometry officer of the Regular Corps of the Public Health Service.

(2) A commissioned officer—

(A) of a Reserve component of the Army, Navy, or Air Force who is designated as an optometry officer; or

(B) who is an optometry officer of the Reserve Corps of the Public Health Service,

who is on active duty as a result of a call or order to active duty for a period of at least one year.

(3) A general officer of the Army or the Air Force appointed, from any of the categories named in clause (1) or (2), in the Army, Air Force, or the National Guard, as the case may be.

(b) RETENTION SPECIAL PAY.—(1) Under regulations prescribed under section 303a(a) of this title, the Secretary concerned may pay an officer described in paragraph (2) a retention special pay of not more than \$15,000 for any twelve-month period during which the officer is not undergoing an internship or initial residency training.

(2) An officer referred to in paragraph (1) is an officer of a uniformed service who—

(A) is entitled to special pay under subsection (a);

(B) has completed any initial active-duty service commitment incurred for education and training; and

(C) is determined by the Secretary concerned to be qualified as an optometrist.

(3) An officer may not be paid retention special pay under paragraph (1) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

(4) The Secretary concerned may terminate at any time the eligibility of an officer to receive retention special pay under paragraph (1). An officer who does not complete the period for which the payment was made under paragraph (1) shall be subject to the repayment provisions of section 303a(e) of this title.

(Added Pub. L. 92-129, title II, §202(a), Sept. 28, 1971, 85 Stat. 357; amended Pub. L. 93-64, title II,

§202, July 9, 1973, 87 Stat. 149; Pub. L. 95-114, §2, Sept. 30, 1977, 91 Stat. 1046; Pub. L. 95-485, title VIII, §801(b), Oct. 20, 1978, 92 Stat. 1619; Pub. L. 96-284, §4(a), June 28, 1980, 94 Stat. 591; Pub. L. 100-26, §8(d)(2), Apr. 21, 1987, 101 Stat. 285; Pub. L. 101-510, div. A, title VI, §617(a), Nov. 5, 1990, 104 Stat. 1578; Pub. L. 104-201, div. A, title VI, §614(a), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 106-398, §1 [[div. A], title VI, §626(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-153; Pub. L. 107-314, div. A, title VI, §615(d), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 109-163, div. A, title VI, §687(b)(5), Jan. 6, 2006, 119 Stat. 3328.)

AMENDMENTS

2006—Subsec. (b)(4). Pub. L. 109-163 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The Secretary concerned may terminate at any time the eligibility of an officer to receive retention special pay under paragraph (1). If such eligibility is terminated, the officer concerned shall receive such special pay only for the part of the period of active duty that the officer served and may be required to refund any amount in excess of that amount."

2002—Subsec. (b)(1). Pub. L. 107-314 substituted "\$15,000" for "\$6,000".

2000—Subsec. (b)(1). Pub. L. 106-398 substituted "the Secretary concerned may pay an officer described in paragraph (2) a" for "an officer described in paragraph (2) may be paid".

1996—Subsec. (b)(2). Pub. L. 104-201, §614(a)(1)(A), substituted "a uniformed service" for "an armed force" in introductory provisions.

Subsec. (b)(2)(C). Pub. L. 104-201, §614(a)(1)(B), struck out "of the military department" before "concerned to be".

Subsec. (b)(4). Pub. L. 104-201, §614(a)(2), struck out "of the military department" before "concerned may terminate".

1990—Pub. L. 101-510 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1987—Pub. L. 100-26 substituted "A" for "a" at beginning of pars. (1) to (3), "; or" for ", or" at end of par. (1)(A), period for semicolon at end of par. (1)(B), and period for "; and" at end of par. (2).

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

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

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

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

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

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-114, §4, Sept. 30, 1977, 91 Stat. 1047, 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.