

# TITLE 37—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

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

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### AMENDMENTS

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

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 37

<i>Title 37 Former Sections</i>	<i>Title 37 New Sections</i>
1-3 .....	Rep.
3a .....	Elim.
4-4b .....	Rep.
4c .....	T. 10 §§ 3682, 8682
4c-1 .....	T. 10 § 6116
5-8a .....	Rep.
9, 9a .....	Rep.
10, 10a .....	Rep.
11-13a .....	Rep.
14, 14a .....	Rep.
15-16a .....	Rep.
17, 17a .....	Rep.
18, 18a .....	Rep.
19, 19a .....	Rep.
20, 20a .....	Rep.
21, 21a .....	Rep.
22-26a .....	Rep.
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30, 31 .....	Rep.
31a (less proviso of (b)) .....	T. 10 §§ 701-704
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32(b), (d), (e), (g), (h) .....	501
32(c) .....	Rep.
32(f) .....	101, 502; T. 10 §§ 702-704
32 (less (b)-(e), (g), (h)) .....	101
33(a) .....	Rep.
33(b) .....	502, 503
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33(e) .....	T. 10 § 704
33a-37 .....	Rep.
38 .....	504; T. 10 § 702
39 .....	501-503. Rep. in part. See T. 33 § 857a
101-101b .....	Rep.
102-103b .....	Rep.
104-111 .....	Rep.
111a .....	403
111b .....	Elim.
112 .....	Rep.
112a .....	Elim.
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113, 114 .....	Rep.
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115a to 117a-1 .....	Rep.
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118b-120 .....	Rep.
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232(c) (last sent.) .....	T. 10 § 517
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233 (less proviso of (d)) .....	205
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243 .....	902
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253(f)-(h) .....	411
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256 .....	415
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272(a), (b) .....	T. 10 §§ 1201-1203; T. 33 § 857a; T. 42 § 213a
272(c) .....	T. 10 §§ 1204-1206; T. 33 § 857a; T. 42 § 213a
272(d) .....	T. 10 §§ 1210, 1372, 1373, 1401, 1402; T. 33 § 857a; T. 42 § 213a
272(e) .....	T. 10 §§ 1210, 1401; T. 33 § 857a; T. 42 § 213a
272(f) .....	T. 10 §§ 1201, 1204, 1210; T. 33 § 857a; T. 42 § 213a
272(g) .....	T. 10 § 1209; T. 33 § 857a; T. 42 § 213a
272(h) .....	T. 10 § 1403; T. 33 § 857a; T. 42 § 213a
272(i) .....	T. 10 § 1215; T. 33 § 857a; T. 42 § 213a
273 .....	T. 10 § 1212; T. 33 § 857a; T. 42 § 213a
274 .....	T. 10 § 1210; T. 33 § 857a; T. 42 § 213a
275-277 .....	T. 10 § 1211; T. 33 § 857a; T. 42 § 213a
278 .....	T. 10 § 1207; T. 33 § 857a; T. 42 § 213a
279 .....	T. 10 §§ 1372, 1373; T. 33 § 857a; T. 42 § 213a
280 .....	T. 10 § 1213; T. 33 § 857a; T. 42 § 213a
281 .....	Rep.
282 .....	T. 10 § 1208. Rep. in part. See T. 10 § 1208 nt.; T. 42 § 212(g)
283 .....	T. 10 § 1214, 1216; T. 33 § 857a; T. 42 § 213a
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307 .....	Elim.
308 .....	201, 422
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310b .....	1005
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313 .....	Elim.
314 .....	903
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318, 319 .....	Rep.
320 .....	403
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321a .....	Elim.
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364, 365 .....	T. 10 § 2771; T. 32 § 714; T. 33 § 857a; T. 42 § 213a. Rep. in part. See T. 10 § 2771 nt.
371(e), (f) .....	T. 10 § 1435; T. 33 § 857a; T. 42 § 213a
371 (less (e), (f)) .....	T. 10 § 1431; T. 33 § 857a; T. 42 § 213a
372(a) .....	T. 10 §§ 1431, 1432; T. 33 § 857a; T. 42 § 213a
372(b) .....	T. 10 § 1431; T. 33 § 857a; T. 42 § 213a
372 (less (a), (b)) .....	T. 10 § 1433; T. 33 § 857a; T. 42 § 213a
372a-372c .....	Rep.
373(c) .....	T. 10 § 1436; T. 33 § 857a; T. 42 § 213a
373(d) .....	T. 10 § 1439; T. 33 § 857a; T. 42 § 213a
373 (less (c), (d)) .....	T. 10 § 1434; T. 33 § 857a; T. 42 § 213a
374 .....	T. 10 § 1438; T. 33 § 857a; T. 42 § 213a
375 .....	T. 10 § 1444; T. 33 § 857a; T. 42 § 213a
376 .....	T. 10 § 1442; T. 33 § 857a; T. 42 § 213a
377 .....	T. 10 §§ 1443, 1444; T. 33 § 857a; T. 42 § 213a
378 .....	T. 10 § 1440; T. 33 § 857a; T. 42 § 213a
379 .....	T. 10 § 1437; T. 33 § 857a; T. 42 § 213a
380 .....	T. 10 § 1441; T. 33 § 857a; T. 42 § 213a
381 .....	Rep.
401 .....	T. 10 § 1071
402(a) .....	T. 10 §§ 1072, 1074, 1076, 1079
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403(a), (b) .....	T. 10 § 1076
403(c)-(e) .....	T. 10 § 1078
403 (less (a)-(e)) .....	T. 10 § 1077
404 .....	T. 10 § 1084
405 .....	Rep.
411(c) .....	T. 10 § 1080
411 (less (c)) .....	T. 10 § 1079
412 .....	T. 10 § 1081
413 .....	T. 10 § 1082
414 .....	T. 10 § 1079
421(c) .....	T. 10 § 1076
421(d) .....	T. 10 § 1085
421 (less (c), (d)) .....	T. 10 § 1074
422 .....	T. 10 § 1075
423 .....	T. 10 § 1083

ENACTING CLAUSE

Pub. L. 87-649, § 1, Sept. 7, 1962, 76 Stat. 451, provided in part: "That the laws relating to pay and allowances of the uniformed services of the United States are re-

vised, codified, and enacted as title 37 of the United States Code, entitled 'Pay and Allowances of the Uniformed Services'."

EFFECTIVE DATE

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

INCONSISTENT PROVISIONS

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

SAVINGS AND SEVERABILITY PROVISIONS

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

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

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

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

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

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

RESTATEMENT OF SUSPENDED OR TEMPORARILY SUPERSEDED PROVISIONS

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

REPEALS

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

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 2 section 906; title 10 sections 2005, 2126, 12319; title 31 section 3702; title 42 sections 204, 2651; title 50 section 403e.

CHAPTER 1—DEFINITIONS

Sec. 101. Definitions.

AMENDMENTS

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

**§ 101. Definitions**

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

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

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

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

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

(5) The term “Secretary concerned” means—  
(A) the Secretary of the Army, with respect to matters concerning the Army;

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

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

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

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

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

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

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

(A) is a land force;

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

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

(D) is federally recognized.

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

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

(A) is an air force;

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

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

(D) is federally recognized.

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

(11) The term “officer” means commissioned or warrant officer.

(12) The term “commissioned officer” includes a commissioned warrant officer.

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

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

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

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

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

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

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

(20) The term “active service” means service on active duty.

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

(22) The term “inactive-duty training” means—

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

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

and includes those duties when performed by members of a reserve component in their status as members of the National Guard, but does not include work or study in connection with a correspondence course of a uniformed service.

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

(24) The term “reserve component” means—

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

- (B) the Army Reserve;
- (C) the Naval Reserve;
- (D) the Marine Corps Reserve;
- (E) the Air National Guard of the United States;
- (F) the Air Force Reserve;
- (G) the Coast Guard Reserve; or
- (H) the Reserve Corps of the Public Health Service.

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

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

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

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
101(1) .....	[No source.]	Aug. 9, 1946, ch. 931, §2
101(2) .....	[No source.]	(less (b), (c), (d), (e), (f))
101(3) .....	37:231(a), (j).	(less last 8 words), (g),
101(4) .....	37:32(a), 37:231(k).	and (h)), 60 Stat. 963.
101(5) .....	37:32(f) (less last 8 words), 37:231(f).	Oct. 12, 1949, ch. 681, §102 (less (g)), 63 Stat. 804.
101(6) .....	[No source.]	
101(7) .....	[No source.]	
101(8) .....	[No source.]	
101(9) .....	[No source.]	
101(10) .....	[No source.]	
101(11) .....	37:231(c).	
101(12) .....	37:231(d).	
101(13) .....	37:231(e), (h).	
101(14) .....	[No source.]	
101(15) .....	[No source.]	
101(16) .....	[No source.]	
101(17) .....	[No source.]	
101(18) .....	[No source.]	
101(19) .....	[No source.]	
101(20) .....	[No source.]	
101(21) .....	[No source.]	
101(22) .....	37:231(i).	
101(23) .....	37:231(b).	
101(24) .....	[No source.]	

The definitions in clauses (1) and (2), (6)–(10), (14)–(21), and (24) reflect the adoption of terminology which, though undefined in the source statutes restated in this revised title, represent the closest practicable approxi-

mation of the ways in which the terms defined have been most commonly used, and so far as possible are identical to those used in title 10, United States Code, containing most of the basic law relating to the armed forces.

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

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

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

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

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

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

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

REFERENCES IN TEXT

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

AMENDMENTS

1998—Par. (2). Pub. L. 105-261 struck out “the Canal Zone,” after “includes”.

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

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

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

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

1988—Par. (5). Pub. L. 100-456 substituted “Secretary” for “secretary” in introductory provisions.

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

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

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

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

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

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

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

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

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

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

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

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

1968—Cl. (5)(D). Pub. L. 90-623 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

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

#### EFFECTIVE DATE OF 1997 AMENDMENT

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

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### EFFECTIVE DATE OF 1974 AMENDMENT

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

#### EFFECTIVE DATE OF 1968 AMENDMENT

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

#### SHORT TITLE OF 1981 AMENDMENT

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

#### SHORT TITLE OF 1980 AMENDMENTS

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

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

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

#### SHORT TITLE OF 1976 AMENDMENT

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

#### SHORT TITLE OF 1974 AMENDMENTS

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

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

#### SHORT TITLE OF 1963 AMENDMENT

Pub. L. 88-132, §1, Oct. 2, 1963, 77 Stat. 210, provided: “That this Act [enacting sections 310 and 427 of this title and section 1401a of Title 10, Armed Forces, amending sections 201, 203, 301, 302, 305, 403, and 421 of this title, sections 1401, 1402, 3991, 6151, 6323, 6325 to 6327, 6381, 6383, 6390, 6394, 6396, 6398 to 6400, 6483, and 8991 of Title 10, section 423 of Title 14, Coast Guard, section 857a of Title 33, Navigation and Navigable Waters, and section 213a of Title 42, The Public Health and Welfare, repealing section 6149 of Title 10 and sections 2351 to 2356 of Title 50, Appendix, War and National Defense, and enacting provisions set out as notes under sections 201, 203, and 305 of this title, section 1402 of Title 10, and section 411 (now 1311) of Title 38, Veterans’ Benefits] may be cited as the ‘Uniformed Services Pay Act of 1963.’”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 section 906; title 5 sections 3326, 3501, 5531; title 10 sections 1032, 2774; title 20 sections 7703, 7706; title 22 section 4833; title 26 section 6013; title 31 section 3702; title 32 section 716; title 33 section 857-1; title 38 section 5301; title 42 sections 292d, 659, 665.

### CHAPTER 3—BASIC PAY

Sec.	
201.	Pay grades: assignment to; general rules.
202.	Pay grades: retired Coast Guard rear admirals (lower half).
203.	Rates.
204.	Entitlement.
205.	Computation: service creditable.
206.	Reserves; members of National Guard: inactive-duty training.
207.	Band leaders.
[208.	Repealed.]

Sec.  
209. Members of precommissioning programs.  
210. Pay of senior enlisted members during terminal leave and while hospitalized.

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 406, 1003 of this title; title 26 section 3121; title 42 section 409.

§ 201. Pay grades: assignment to; general rules

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

Pay grade	Army, Air Force, and Marine Corps	Navy, Coast Guard, and National Oceanic and Atmospheric Administration	Public Health Service
O-10	General	Admiral	Assistant Secretary for Health.
O-9	Lieutenant general.	Vice admiral	Surgeon General.
O-8	Major general.	Rear admiral	Deputy Surgeon General.
O-7	Brigadier general.	Rear admiral (lower half).	Assistant Surgeon General having rank of major general.
O-6	Colonel	Captain	Assistant Surgeon General having rank of brigadier general.
			Director grade.

Pay grade	Army, Air Force, and Marine Corps	Navy, Coast Guard, and National Oceanic and Atmospheric Administration	Public Health Service
O-5	Lieutenant colonel.	Commander	Senior grade.
O-4	Major	Lieutenant commander.	Full grade.
O-3	Captain	Lieutenant	Senior assistant grade.
O-2	1st lieutenant.	Lieutenant (junior grade).	Assistant grade.
O-1	2d lieutenant.	Ensign	Junior assistant grade.

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

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

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

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

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

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 453; Pub. L. 88-132, §3(a), Oct. 2, 1963, 77 Stat. 212; Pub. L. 89-718, §49(a)(1), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 91-278, §3(1), June 12, 1970, 84 Stat. 306; Pub. L. 95-79, title III, §302(a)(1), July 30, 1977, 91 Stat. 326; Pub. L. 96-76, title III, §313(a), Sept. 29, 1979, 93 Stat. 586; Pub. L. 96-513, title V, §§506(3), 516(2), Dec. 12, 1980, 94 Stat. 2918, 2937; Pub. L. 97-86, title IV, §405(c), Dec. 1, 1981, 95 Stat. 1106; Pub. L. 98-94, title IX, §932(d), Sept. 24, 1983, 97 Stat. 650; Pub. L. 98-557, §25(b)(1), Oct. 30, 1984, 98 Stat. 2872; Pub. L. 99-145, title V, §514(d)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 101-502, §5(k)(2), Nov. 3, 1990, 104 Stat. 1289; Pub. L. 102-25, title VII, §701(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §605, title XI, §1111(b), Dec. 5, 1991, 105 Stat. 1374, 1491.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
201(a)	37:232(b).	Oct. 12, 1949, ch. 681, §201(b); restated May 20, 1958, Pub. L. 85-422, §1(2), 72 Stat. 124.
201(b)	37:304 (as applicable to basic pay).	Oct. 12, 1949, ch. 681, §504 (as applicable to basic pay), 63 Stat. 827.

## HISTORICAL AND REVISION NOTES—Continued

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

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

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

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

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

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

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

## AMENDMENTS

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

Subsec. (c). Pub. L. 102-190, §605, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "An aviation cadet of the Navy, Air Force, Ma-

rine Corps, or Coast Guard is entitled to monthly basic pay at the rate of 50 percent of the basic pay of a commissioned officer in pay grade O-1 with two or less years of service computed under section 205 of this title."

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

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

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

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

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

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

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

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

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

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

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

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

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

## EFFECTIVE DATE OF 1991 AMENDMENT

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

## EFFECTIVE DATE OF 1990 AMENDMENT

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

## EFFECTIVE DATE OF 1983 AMENDMENT

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

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1979 AMENDMENT

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

EFFECTIVE DATE OF 1963 AMENDMENT

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

TRANSFER OF FUNCTIONS

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

CROSS REFERENCES

Warrant officer grades, see section 571 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 section 1602; title 10 section 571; title 18 section 207.

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

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

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

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
202(a) .....	10:5507(a).	[None.]
202(b) .....	10:5507(b).	[None.]
202(c) .....	10:5507(c).	[None.]
202(d) .....	10:5507(d).	[None.]
	14:462a (less applicability to retired pay).	[None.]

HISTORICAL AND REVISION NOTES—Continued

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

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

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

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

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

AMENDMENTS

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

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

1983—Pub. L. 97-417 substituted provision relating to the entitlement of retired list Coast Guard commodores to the basic pay of a retired rear admiral after two years emergency or wartime duty, for former subsecs. (a) and (b), which, respectively, related to the entitlement of retired Coast Guard rear admirals (otherwise entitled to the basic pay of retired list rear admirals) to the basic pay of an upper half rear admiral after two years emergency or wartime active duty, and provided that the number of active list Coast Guard rear admirals entitled to upper half pay be half the difference between the number of active list officers above captain and the number of officers serving above rear admiral, an odd number result to be placed in the upper half, and no officer entitled to rear admiral pay to have it reduced solely because of a reduction in the number of rear admirals.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### EFFECTIVE DATE OF 1980 AMENDMENTS

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

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

#### EFFECTIVE DATE OF 1972 AMENDMENT

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

#### EFFECTIVE DATE OF 1968 AMENDMENT

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

#### TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

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

#### § 203. Rates

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

(b) While serving as a permanent professor at the United States Military Academy or the United States Air Force Academy or as a member of the permanent commissioned teaching staff at the United States Coast Guard Academy, an officer who has over 36 years of service computed under section 205 of this title is, in addition to the pay and allowances to which he is otherwise entitled under this title, entitled to additional pay in the amount of \$250 a month. This additional pay may not be used in the computation of retired pay.

(c) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to monthly cadet pay, or midshipman pay, at the rate of \$600.00.

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

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

(2) A student at a preparatory school referred to in paragraph (1) who, at the time of the student's selection to attend the preparatory school, was an enlisted member of the uniformed services on active duty for a period of more than 30 days shall continue to receive monthly basic pay at the rate prescribed for the student's pay grade and years of service as an enlisted member.

(3) The monthly student pay of a student described in paragraph (1) shall be treated for pur-

poses of the accrual charge for the Department of Defense Military Retirement Fund established under section 1461 of title 10 in the same manner as monthly cadet pay or midshipman pay under subsection (c).

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

HISTORICAL AND REVISION NOTES

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

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

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-261 substituted "\$600.00" for "\$558.04".  
 1996—Subsec. (c). Pub. L. 104-201 designated par. (1) as entire subsec. (c) and struck out former par. (2) which read as follows: "The rate of monthly cadet pay, or midshipman pay, under this subsection shall be adjusted in the manner and at the time the monthly basic pay of members of the uniformed services is adjusted under section 1009 of this title."  
 1994—Subsec. (c)(1). Pub. L. 103-337 substituted "\$558.04" for "\$543.90".  
 1993—Subsec. (e). Pub. L. 103-160 added subsec. (e).  
 1989—Subsec. (c)(1). Pub. L. 101-189 substituted "\$543.90" for "\$525".  
 1988—Subsec. (c)(1). Pub. L. 100-456 substituted "\$525" for "\$504.30".

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

1986—Subsec. (c)(1). Pub. L. 99-661 substituted "\$494.40" for "\$461.40".

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

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

1981—Subsec. (c)(1). Pub. L. 97-60 substituted "\$461.40" for "\$313.20".

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1994 AMENDMENT

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

## EFFECTIVE DATE OF 1993 AMENDMENT

Section 603(b) of Pub. L. 103-160 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to students entering the United States Military Academy Preparatory School, the United States Naval Academy Preparatory School, or the United States Air Force Academy Preparatory School on or after the date of the enactment of this Act [Nov. 30, 1993]."

## EFFECTIVE DATE OF 1989 AMENDMENT

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

## EFFECTIVE DATE OF 1988 AMENDMENT

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

## EFFECTIVE DATE OF 1987 AMENDMENT

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

## EFFECTIVE DATE OF 1986 AMENDMENT

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

## EFFECTIVE DATE OF 1983 AMENDMENT

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

## EFFECTIVE DATE OF 1981 AMENDMENT

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

## EFFECTIVE DATE OF 1980 AMENDMENT

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

## EFFECTIVE DATE OF 1974 AMENDMENT

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

## EFFECTIVE DATE OF 1971 AMENDMENT

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

## EFFECTIVE DATE OF 1967 AMENDMENT

Section 7 of Pub. L. 90-207 provided that: "This Act [enacting sections 311 and 411a of this title, amending this section, sections 403 and 407 of this title, sections 1401 to 1402, 1436, 3991, 6326, 6330, and 8991 of Title 10, Armed Forces, and section 2203 of Appendix to Title 50, War and National Defense, and enacting provisions set out as notes under this section and sections 1401 and 1401a of Title 10] becomes effective as of October 1, 1967. However, a member, except as provided in section 6 of this Act [set out as a note under section 1401 of Title 10], is not entitled to any increases in his pay and allowances under section 1 [enacting section 311 of this title and amending this section and sections 403 and 407 of this title] or section 4 [amending section 2203 of Appendix to Title 50] for any period before the date of enactment of this Act [Dec. 16, 1967] unless he is on active duty on the date of enactment of this Act. In addition,

a member of the National Guard or a member of a Reserve Component of a uniformed service who is in a drill pay status on the effective date of this Act [Oct. 1, 1967] is entitled to have any compensation to which he has become entitled under section 206 of title 37, United States Code, after September 30, 1967, computed under the rates of basic pay prescribed by section 1(1) of this Act [amending this section]."

## EFFECTIVE DATE OF 1966 AMENDMENT

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

## EFFECTIVE DATE OF 1965 AMENDMENT

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

## EFFECTIVE DATE OF 1964 AMENDMENT

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

## EFFECTIVE DATE OF 1963 AMENDMENT

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

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

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

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

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

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

shall, if otherwise entitled, receive the rate of pay prescribed by section 201(c) of title 37, United States Code, as in effect on the day before the date of enactment of this Act, [July 30, 1977], until the rate of pay authorized by section 203(c) of such title, as added by the amendments made by subsection (a) of this section, is equal to or greater than the rate prescribed by section 201(c) of such title, as in effect on the day before the date of enactment of this Act. Thereafter, the rate of pay of such person shall be as prescribed by section 203(c) of such title, as added by the amendments made by subsection (a) of this section, or section 209(c) of such title, as amended by subsection (a) of this section, as appropriate.

"(c) A person who, on the date of enactment of this Act [July 30, 1977], is an applicant for membership in

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

MASTER CHIEF PETTY OFFICER OF THE COAST GUARD;  
PAY RECOVERY

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

REPORT ON EFFECTIVENESS OF 1971 PAY INCREASES IN  
INCREASING VOLUNTEERS

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

PAY CONTINUATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PERIODIC PAY ADJUSTMENTS IN MONTHLY BASIC PAY

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

ADJUSTMENT OF PAY RATES

Monthly pay rates under subsec. (c) were adjusted by the following Executive orders:

Ex. Ord. No. 13106, Dec. 7, 1998, 63 F.R. 68151, \$600.00 effective Jan. 1, 1999.

Ex. Ord. No. 13071, Dec. 29, 1997, 62 F.R. 68521, \$558.04 effective Jan. 1, 1998.

Ex. Ord. No. 13033, Dec. 27, 1996, 61 F.R. 68987, \$558.04 effective Jan. 1, 1997.

Ex. Ord. No. 12990, Feb. 29, 1996, 61 F.R. 8467, \$558.04 effective Jan. 1, 1996.

Ex. Ord. No. 12984, Dec. 28, 1995, 61 F.R. 237, \$558.04 effective Jan. 1, 1996.

Ex. Ord. No. 12944, Dec. 28, 1994, 60 F.R. 309, \$558.04 effective Jan. 1, 1995.

Ex. Ord. No. 12886, Dec. 23, 1993, 58 F.R. 68709, \$543.90 effective Jan. 1, 1994.

Ex. Ord. No. 12826, Dec. 30, 1992, 57 F.R. 62909, \$543.90 effective Jan. 1, 1993.

Ex. Ord. No. 12786, Dec. 26, 1991, 56 F.R. 6753, \$543.90 effective Jan. 1, 1992.

Ex. Ord. No. 12736, Dec. 12, 1990, 55 F.R. 51385, \$543.90 effective Jan. 1, 1991.

Ex. Ord. No. 12698, Dec. 23, 1989, 54 F.R. 53473, \$543.90 effective Jan. 1, 1990.

Ex. Ord. No. 12663, Jan. 6, 1989, 54 F.R. 791, \$525 effective Jan. 1, 1989.

Ex. Ord. No. 12622, Dec. 31, 1987, 53 F.R. 222, \$504.30 effective Jan. 1, 1988.

Ex. Ord. No. 12578, Dec. 31, 1986, 52 F.R. 505, \$494.40 effective Jan. 1, 1987.

Ex. Ord. No. 12387, Oct. 8, 1982, 47 F.R. 44981, \$480 effective Oct. 1, 1982.

Ex. Ord. No. 12330, Oct. 15, 1981, 46 F.R. 50921, \$461.40 effective Oct. 1, 1981.

Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, \$419.40 effective Oct. 1, 1980.

Ex. Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671, as amended by Ex. Ord. No. 12200, Mar. 12, 1980, 44 F.R. 16443, \$375.60 effective Oct. 1, 1979.

Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, \$351 effective Oct. 1, 1978.

Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, \$332.70 (\$345 pursuant to Pub. L. 95-79), effective Oct. 1, 1977.

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

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

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

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

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

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

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

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

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 209, 1009 of this title; title 2 section 906; title 10 section 702.

### § 204. Entitlement

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

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

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

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

(c) A member of the National Guard who is called into Federal service for a period of 30 days or less is entitled to basic pay from the date when he appears at the place of company ren-

devzvous. However, this subsection does not authorize any expenditure before arriving at the place of rendezvous that is not authorized by law to be paid after arrival at that place.

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

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

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

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

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

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

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

(D) in line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member's residence.

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

(h)(1) A member of a reserve component of a uniformed service who is physically able to per-

form his military duties, is entitled, upon request, to a portion of the monthly pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for each month for which the member demonstrates a loss of earned income from non-military employment or self-employment as a result of an injury, illness, or disease incurred or aggravated—

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

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

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

(D) in line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member's residence.

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

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

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

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

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

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

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

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

such care, and return to his home upon discharge from treatment.

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

HISTORICAL AND REVISION NOTES

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

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

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

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

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

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

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

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

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

## AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## EFFECTIVE DATE OF 1994 AMENDMENT

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

## EFFECTIVE DATE OF 1988 AMENDMENT

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

## EFFECTIVE DATE OF 1983 AMENDMENT

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

## EFFECTIVE DATE OF 1980 AMENDMENT

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

## CROSS REFERENCES

No increase in allowances while dependent entitled to basic pay, see section 421 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 206, 301, 301a, 304, 316, 402, 411h, 421, 707 of this title; title 5 sections 4102, 8334, 8422; title 22 section 4045; title 50 section 2082.

**§ 205. Computation: service creditable**

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

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

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

(A) a regular component of a uniformed service;

(B) the Regular Army Reserve;

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

(D) the National Guard;

(E) the National Guard Reserve;

(F) a reserve component of a uniformed service;

- (G) the Naval Militia;
- (H) the National Naval Volunteers;
- (I) the Naval Reserve Force;
- (J) the Army without specification of component;
- (K) the Air Force without specification of component;
- (L) the Marine Corps Reserve Force;
- (M) the Philippine Scouts; or
- (N) the Philippine Constabulary;

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

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

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

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

(7) all periods while—

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

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

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

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

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

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

(d) Notwithstanding subsection (a), a commissioned officer may not count in computing basic pay a period of service after October 13, 1964, that the officer performed concurrently as a member of the Senior Reserve Officers' Training Corps, except for service that the officer per-

formed on or after August 1, 1979, other than for training as an enlisted member of the Selected Reserve may be so counted.

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

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

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

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

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

HISTORICAL AND REVISION NOTES

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

In subsection (a), the introductory clause is substituted for section 233(a) (introductory clause) of existing title 37. In clauses (1) and (2), the word "officer" is substituted for the words "commissioned officer, commissioned warrant officer, warrant officer" to conform to the definition of "officer" in section 101(11) of this revised title. In clause (1), the words "Regular or Reserve component" are omitted, since, under the definition of "reserve component" in section 102(k) of the source statute, those words are defined to include members without component status. Together, these categories compose the entire structure of any uniformed service. In clause (2)(F), the words "a reserve component of a uniformed service" are substituted for the words "the National Guard of the United States, or in



the Organized Reserve Corps, or in the Officers' Reserve Corps, or in the Enlisted Reserve Corps, or in the Medical Reserve Corps, or in the Medical Reserve Corps of the Navy, or in the Dental Reserve Corps of the Navy . . . or in the Naval Reserve . . . or in the Air National Guard of the United States, or in the Air Force Reserve, or in the officers' section of the Air Force Reserve, or in the enlisted section of the Air Force Reserve, or in the Air Corps Reserve . . . or in the Marine Corps Reserve, or in the Coast Guard Reserve, or in the Reserve Corps of the Public Health Service," since all of the named organizations were or are reserve components. In clause (4), the words "as it existed at any time before April 16, 1947" are inserted for clarity, since the reference is intended to apply to the corps established by law before April 16, 1947. Service in the Army Nurse Corps or Navy Nurse Corps now existing would be included under clause (1) or (2), since there is now no legal distinction between the service of nurses and that of other members of the Army and Navy. In clause (6), the date "January 1, 1961," is substituted for the words "the effective date of this section," to reflect laws enacted after that effective date which authorized certain service to be credited for pay purposes. See, for example, Public Law 86-142. Clause (9) is substituted for section 233(b) (less proviso) of existing title 37. The last sentence is substituted for section 233(b) (proviso) of existing title 37.

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

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

#### AMENDMENTS

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

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

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

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

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

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

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

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

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

"(2) begins an initial period of active duty for training under subsection (d) of that section, may not be counted under this section."

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

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

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

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

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

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

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

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

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

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

#### EFFECTIVE DATE OF 1994 AMENDMENT

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

#### EFFECTIVE DATE OF 1984 AMENDMENT

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

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

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

#### EFFECTIVE DATE OF 1968 AMENDMENT

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

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

No increase in pay or retired or retainer pay to accrue for periods before Sept. 23, 1996, by reason of

amendments made by section 507 of Pub. L. 104-201, see section 507(c) of Pub. L. 104-201, set out as a note under section 2106 of Title 10, Armed Forces.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

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

CROSS REFERENCES

Years of service, computation of, see section 1405 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 203, 301c, 308, 406 of this title; title 10 sections 972, 2126; title 42 section 212.

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

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

- (1) for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least two hours, including that performed on a Sunday or holiday;
- (2) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe; or
- (3) for a regular period of instruction that the member is scheduled to perform but is unable to perform because of physical disability resulting from an injury, illness, or disease incurred or aggravated—

- (A) in line of duty while performing—
  - (i) active duty; or
  - (ii) inactive-duty training;

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

(C) in line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member's residence.

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

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

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

(3) the minimum number of assemblies or periods of other equivalent training, instruction, duty, or appropriate duties that must be completed in stated periods of time before the members of units or organizations can qualify for pay.

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

(d) This section does not authorize compensation for work or study performed by a member of a reserve component in connection with correspondence courses of an armed force.

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

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 460; Pub. L. 98-525, title XIV, §1402(a), Oct. 19, 1984, 98 Stat. 2620; Pub. L. 99-661, div. A, title VI, §604(c), Nov. 14, 1986, 100 Stat. 3876; Pub. L. 100-456, div. A, title VI, §631(c), Sept. 29, 1988, 102 Stat. 1985; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title VII, §702(d), Feb. 10, 1996, 110 Stat. 371; Pub. L. 105-85, div. A, title V, §513(g), Nov. 18, 1997, 111 Stat. 1732.)

HISTORICAL AND REVISION NOTES

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

In subsection (a), the words "National Guard" are substituted for the words "National Guard, Air National Guard", in section 301(a) of existing title 37, to conform to the definition of "National Guard" in section 101(6) of this revised title. The words "member of a reserve component of a uniformed service" are substituted for the words "National Guard of the United States, Air National Guard of the United States, Organized Reserve Corps, Naval Reserve, Air Force Reserve, Marine Corps Reserve, Coast Guard Reserve, and the

Reserve Corps of the Public Health Service," since all of those organizations, or their successors, are the reserve components of the uniformed services. The words "who is not entitled to basic pay under section 204 of this title" are substituted for section 301(e) as (applicable to basic pay) of existing title 37. The words "of a corresponding grade" are inserted for clarity.

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

#### PRIOR PROVISIONS

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

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

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

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

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

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

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

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

#### AMENDMENTS

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

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

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

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

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

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

#### EFFECTIVE DATE OF 1988 AMENDMENT

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

#### EFFECTIVE DATE OF 1984 AMENDMENT

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

#### CROSS REFERENCES

Inactive-duty training defined, see section 101 of this title and section 101 of Title 10, Armed Forces.

Incentive pay for hazardous duty, see section 301 of this title.

Rations in kind when instruction or duty periods total at least 8 hours in calendar day, see section 402 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 204, 301, 301a, 301c, 304, 308d, 316, 402, 433, 707, 1012 of this title;

title 10 sections 101, 1465, 1466, 12319; title 26 section 3121; title 31 section 698a; title 32 section 715; title 38 section 101; title 42 section 409.

#### § 207. Band leaders

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

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

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

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

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

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

#### HISTORICAL AND REVISION NOTES

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

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

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

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

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

#### AMENDMENTS

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

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

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

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

#### CROSS REFERENCES

Leader of Naval Academy Band, allowances, see section 424 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 424 of this title.

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

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

**§ 209. Members of precommissioning programs**

(a) Except when on active duty, a member of the Senior Reserve Officers' Training Corps who is selected for advance training under section 2104 of title 10 is entitled to a subsistence allowance of \$150 a month beginning on the day he starts advanced training and ending upon the completion of his instruction under that section, but in no event shall any member receive such pay for more than 30 months. Subsistence allowance under this section may not be considered financial assistance requiring additional service within the meaning of the third sentence of section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)).

(b) Except when on active duty, a cadet or midshipman appointed under section 2107 of title 10 is entitled to a monthly subsistence allowance in the amount provided in subsection (a). A member enrolled in the first two years of a four-year program is entitled to receive subsistence for a maximum of twenty months. A member enrolled in the advanced course is entitled to subsistence as prescribed for a member enrolled under section 2104 of title 10 as prescribed in subsection (a).

(c) Each cadet or midshipman in the Senior Reserve Officers' Training Corps, while he is attending training or practice cruises under chapter 103 of title 10 if the training or cruise is of at least four weeks duration and must be completed before the cadet or midshipman is commissioned, and each applicant for membership in the Senior Reserve Officers' Training Corps, while he is attending field training or practice cruises to satisfy the requirements of section 2104(b)(6)(B) of title 10 for admission to advanced training, is entitled, while so attending, to pay at the rate prescribed for cadets and midshipmen at the United States Military, Naval, and Air Force Academies under section 203(c) of this title.

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

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 461; Pub. L. 88-647, title II, § 202(2), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-51, § 3, June 28, 1965, 79 Stat. 173; Pub.

L. 89-718, § 51, Nov. 2, 1966, 80 Stat. 1121; Pub. L. 92-171, § 1, Nov. 24, 1971, 85 Stat. 490; Pub. L. 95-79, title III, § 302(a)(3), July 30, 1977, 91 Stat. 326; Pub. L. 96-342, title VIII, § 811(a), Sept. 8, 1980, 94 Stat. 1098; Pub. L. 96-513, title V, § 516(4), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96-579, § 8, Dec. 23, 1980, 94 Stat. 3368; Pub. L. 98-94, title X, § 1003(a)(4), Sept. 24, 1983, 97 Stat. 656; Pub. L. 100-456, div. A, title VI, § 633(d), Sept. 29, 1988, 102 Stat. 1987; Pub. L. 101-189, div. A, title VI, § 653(d), Nov. 29, 1989, 103 Stat. 1462; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103-337, div. A, title VI, § 603(a), Oct. 5, 1994, 108 Stat. 2782.)

## HISTORICAL AND REVISION NOTES

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

## AMENDMENTS

1994—Subsec. (a). Pub. L. 103-337 substituted “\$150 a month” for “\$100 a month”.

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

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

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

1983—Subsec. (a). Pub. L. 98-94 substituted “30 months” for “20 months”.

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

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

Pub. L. 96-342 added subsec. (d).

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

Subsec. (c). Pub. L. 95-79, § 302(a)(3)(A), substituted provisions authorizing rates of pay for cadets and midshipmen in the Senior Reserve Officers' Training Corps and applicants for membership in the Corps to be computed under section 203(c) of this title, for provisions authorizing rates of pay for members of the Senior Reserve Officers' Training Corps to be computed under section 201(c) of this title and for applicants for membership in the Corps to be computed under section 203 of this title for enlisted members in pay grade E-1.

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

Subsec. (b). Pub. L. 92-171, § 1(2), substituted “a monthly subsistence allowance in the amount provided in subsection (a) of this section. A member enrolled in the first two years of a four-year program is entitled to receive subsistence for a maximum of twenty months. A member enrolled in the advanced course is entitled to subsistence as prescribed for a member enrolled under section 2104 of title 10 as prescribed in subsection

(a) of this section.” for “subsistence allowance at the rate of \$50 a month beginning on the day that he starts his first term of college work under that section and ending upon the completion of his instruction under that section, but not for more than four years.”

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

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

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

Subsec. (b). Pub. L. 89-51 substituted “subsistence allowance” for “retainer pay”.

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

#### EFFECTIVE DATE OF 1994 AMENDMENT

Section 603(b) of Pub. L. 103-337 provided that: “(1) Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall apply with respect to months beginning after August 31, 1995.

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

#### EFFECTIVE DATE OF 1988 AMENDMENT

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

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### EFFECTIVE DATE OF 1971 AMENDMENT

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

#### EFFECTIVE DATE OF 1965 AMENDMENT

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

#### SUBSISTENCE ALLOWANCES FOR MEMBERS OF THE MARINE CORPS OFFICER CANDIDATE PROGRAMS

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

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1478; title 14 section 705.

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

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

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

### 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.

- Sec.  
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.
- 302d. Special pay: accession bonus for registered nurses.
- 302e. Special pay: nurse anesthetists.
- 302f. Special pay: reserve, recalled, or retained health care officers.
- 302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties.
- 302h. Special pay: accession bonus for dental 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.
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.
308. Special pay: reenlistment bonus.
- 308a. Special pay: enlistment bonus.
- 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. Special pay: bonus for enlistment in the Army.
- 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. Repealed.]
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 enlisted 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.
- 1997—Pub. L. 105-85, div. A, title VI, §§617(b), 619(c)(2), 625(a)(2), Nov. 18, 1997, 111 Stat. 1789, 1790, 1795, added item 301e and substituted “hardship duty location pay” for “while on duty at certain places” in item 305 and “Special pay or bonus:” for “Special pay:” in item 314.
- 1996—Pub. L. 104-201, div. A, title VI, §615(c)(2), Sept. 23, 1996, 110 Stat. 2546, added item 302h.
- Pub. L. 104-106, div. A, title VI, §614(a)(2), Feb. 10, 1996, 110 Stat. 361, added item 302g.
- 1991—Pub. L. 102-190, div. A, title VI, §§634(b), 635(b), 636(b), Dec. 5, 1991, 105 Stat. 1381-1383, added items 302f, 303b, and 316a.
- Pub. L. 102-25, title VII, §702(a)(1), Apr. 6, 1991, 105 Stat. 117, substituted “Multiyear retention” for “Retention” in item 301d.
- 1990—Pub. L. 101-510, div. A, title VI, §§611(a)(2), 618(c)(2), title XII, §1203(a)(2), title XIV, §1484(f)(1), Nov. 5, 1990, 104 Stat. 1576, 1579, 1657, 1717, revised chapter heading so as to appear in all capital letters, added item 301d, inserted “and nonphysician health care providers” after “psychologists” in item 302c, and added item 317.
- 1989—Pub. L. 101-189, div. A, title V, §505(a)(2), title VII, §§704(b)(2), 705(a)(2), 706(a)(2), Nov. 29, 1989, 103 Stat. 1438, 1471-1473, struck out “in the Public Health Service Corps” after “psychologists” in item 302c and added items 302d, 302e, and 308d.
- 1987—Pub. L. 100-140, §2(b)(2), Oct. 26, 1987, 101 Stat. 831, added item 302c.
- 1986—Pub. L. 99-661, div. A, title VI, §634(a)(2), Nov. 14, 1986, 100 Stat. 3885, added item 316.
- 1985—Pub. L. 99-145, title VI, §§639(e), 644(a)(2), Nov. 8, 1985, 99 Stat. 651, 653, substituted “dental officers of the armed forces” for “dentists” in item 302b, added item 308i, and struck out item 311 “Special pay: continuation pay for dentists in the armed forces”.
- 1984—Pub. L. 98-525, title VI, §623(b)(2), title XIV, §1402(b)(2), Oct. 19, 1984, 98 Stat. 2542, 2621, substituted “special duty assignment pay for enlisted members” for “proficiency pay for enlisted members” in item 307, and added item 306a.
- 1983—Pub. L. 98-94, title IX, §905(b)(2), title X, §1011(b)(2), Sept. 24, 1983, 97 Stat. 664, struck out item 308d “Special pay: bonus for enlistment, reenlistment, or extension of enlistment in elements of the ready Reserve other than the Selected Reserve”, added items 308g and 308h, and in item 310 inserted “or imminent danger”.
- 1981—Pub. L. 97-60, title I, §§117(c)(2), 120(b), Oct. 14, 1981, 95 Stat. 997, 999, added items 308f and 315.
- 1980—Pub. L. 96-579, §§3(e), 5(a)(2), Dec. 23, 1980, 94 Stat. 3364, 3366, added items 301c and 314.
- Pub. L. 96-513, title V, §506(5), Dec. 12, 1980, 94 Stat. 2919, struck out items 302c “Special pay: medical officers of the Public Health Service” and 313 “Special pay: medical officers of the Public Health Service who execute active duty agreements”, and struck out “and physicians and dentists in the Public Health Service” after “forces” in item 311.
- Pub. L. 96-342, title VIII, §§805(a)(2), 806(a)(2), Sept. 8, 1980, 94 Stat. 1094, 1096, added items 301b, 308d, and 308e.
- Pub. L. 96-284, §§2(b), 3(a)(2), (b)(6), 4(d)(4), 5(b), June 28, 1980, 94 Stat. 589-593, added items 302c and 303a, and in item 302, substituted “medical officers of the armed forces” for “physicians”, item 311, substituted “dentists in the armed forces and physicians and dentists in the Public Health Service” for “physicians and dentists who extend their service on active duty”, and in item 313, inserted “of the Public Health Service” after “medical officers”.
- 1979—Pub. L. 96-107, title IV, §404(a)(2), Nov. 9, 1979, 93 Stat. 808, struck out item 309 “Reserves; members of National Guard: additional pay for performance of administrative duty.”
- 1978—Pub. L. 95-485, title IV, §404(b), title VIII, §804(b)(2), Oct. 20, 1978, 92 Stat. 1615, 1621, substituted “on duty” for “on sea duty or duty” in item 305, and added items 305a and 308c.
- 1977—Pub. L. 95-79, title IV, §403(a)(2), July 30, 1977, 91 Stat. 331, added item 308b.

## AMENDMENTS

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.

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.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 907, 1003 of this title; title 42 sections 210, 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 clause (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); or

(11) involving frequent and regular participation in aerial flight by a member who is serv-

ing 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 clause (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 clauses (2) through (10) of subsection (a), a member is entitled to \$150 a month. However, a member performing hazardous duty described in clause (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 clause (11) 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
Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 25		

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	\$150	
O-6 .....	350	350	350	300	250	250	225	
O-5 .....	350	350	350	300	250	250	225	
O-4 .....	350	350	350	300	250	250	225	
O-3 .....	350	350	300	275	250	225	200	
O-2 .....	300	300	275	245	210	200	180	
O-1 .....	250	250	245	210	200	180	150	
W-4 .....	325	325	325	276	250	225	200	
W-3 .....	325	325	325	275	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 appropriations, when a member of a reserve component of a uniformed service, or of the National Guard, who is entitled to compensation under section 206 of this title, performs, under orders, any duty described in subsection (a) for members entitled to basic pay, he is entitled to an increase in compensation equal to 1/30 of the monthly incentive pay authorized by subsection (b) or (c), as the case may be, for the performance of that hazardous duty by a member of a corresponding grade who is entitled to basic pay. He is entitled to the increase for as long as he is qualified for it, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or holiday, or for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title. This subsection does not apply to a member who is entitled to basic pay under section 204 of this title for the entire month.

(2)(A) If in any calendar month a member performs duty as described in paragraph (1) and while entitled to basic pay also performs hazardous duty as described in the same clause 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, 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.)

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

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



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.

#### AMENDMENTS

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 de-

ployment by the jumper without the use of a static line" for "at a high altitude with a low opening".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

subcl. (B) substituted reference to subcl. (B) for reference to cl. (B).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### EFFECTIVE DATE OF 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, set out below.

#### EX. ORD. NO. 11157. REGULATIONS RELATING TO INCENTIVE PAY, SPECIAL PAY, AND ALLOWANCES

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, provided:

By virtue of the authority vested in me by sections 301(a) and (f), 305(a), 402(f), and 403(g) of title 37 of the United States Code, and as President of the United States and Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

#### PART I—INCENTIVE PAY FOR HAZARDOUS DUTY

SEC. 101. For the purposes of these regulations:

(a) The term “aerial flight” shall be construed to mean flight in an aircraft, glider, or spacecraft; and a flight shall be deemed to begin when the aircraft, glider, or spacecraft takes off from rest at any point of support located on the surface of the earth and to terminate when it next comes to a complete stop at a point of support located on the surface of the earth.

(b) The term “aviation accident” shall be construed to mean an accident in which a member who is required to participate frequently and regularly in aerial flight is injured or otherwise incapacitated as the result, as attested by the appropriate medical authority of the uniformed service concerned, of (1) jumping from, being thrown from or being struck by, an aircraft, glider, or spacecraft, or any part or auxiliary thereof, or (2) participation in any duly authorized aerial flight or other aircraft, glider, or spacecraft operations.

SEC. 102. Under such regulations as the Secretary concerned may prescribe, any member of the uniformed services, including members assigned to special, administrative, or school duties, may be required by competent orders to perform hazardous duty.

SEC. 103. (a) Each member who is required by competent orders to participate frequently and regularly in aerial flights, other than glider flights, shall make the flights required as a crew member or as a non-crew member as directed by competent authority.

(b) Determinations as to what constitutes duty as a crew member and duty as a non-crew member shall be made in accordance with regulations prescribed by the Secretary concerned: *Provided*, That such determinations shall be uniform for all the services to the fullest extent practicable.

SEC. 104. Under such regulations as the Secretary concerned may prescribe, members who are required by competent orders to participate frequently and regularly in aerial flights, other than glider flights, shall be required to meet the following minimum flight requirements, except as otherwise provided in section 110 hereof, in order to be entitled to receive monthly incentive pay for the performance of hazardous duty.

(a) Minimum flight requirements for members on active duty who may qualify for incentive pay under the provisions of section 301(a) of title 37, United States Code:

(1) During one calendar month: 4 hours of aerial flight; however, hours of aerial flight performed during

the immediately preceding five calendar months and not already used to qualify for incentive pay may be applied to satisfy the aerial flight requirement for that month.

(2) During any two consecutive calendar months when the requirements of clause (1) above have not been met: 8 hours of aerial flight.

(3) During any three consecutive calendar months when the requirements of clause (2) above have not been met: 12 hours of aerial flight.

(4) For fractions of a calendar month, the time of aerial flight required shall bear the same ratio to the time required for a full calendar month as the period in question bears to a full calendar month.

(5) For fractions of two consecutive calendar months, the period in question shall be considered as a unit and the time of aerial flight required shall bear the same ratio to the time required for a full calendar month as the period in question bears to a full calendar month.

(6) Whenever, under authority conferred by the Secretary concerned, the commanding officer of any member who has been required by competent orders to participate frequently and regularly in aerial flights, other than glider flights, certifies that on account of military operations of the particular command or on account of the unavailability of aircraft such member was unable to perform the aerial flights required by this section, such member may comply with the minimum flight requirements by performing at least 24 hours of aerial flight over a period of six consecutive calendar months, and such requirements may be met at any time during such period.

(b) Minimum flight requirements for members of reserve components of the uniformed services on inactive-duty training who may qualify for incentive pay under the provisions of section 301(f) of title 37, United States Code:

(1) During one calendar month: 2 hours of aerial flight; however, hours of aerial flight performed during the immediately preceding five calendar months and not already used to qualify for incentive pay may be applied to satisfy the aerial flight requirement for that month.

(2) During any two consecutive calendar months, when the requirements of clause (1) above have not been met: 4 hours of aerial flight.

(3) During any three consecutive calendar months when the requirements of clause (2) above have not been met: 6 hours of aerial flight.

(4) For fractions of a calendar month, the time of aerial flight required shall bear the same ratio to the time required for a full calendar month as the period in question bears to a full calendar month.

(5) For fractions of two consecutive calendar months, the period in question shall be considered as a unit and the time of aerial flight required shall bear the same ratio to the time required for a full calendar month as the period in question bears to a full calendar month.

(c) Minimum flight requirements for members of reserve components of the uniformed services who perform both active-duty and inactive-duty training during the same calendar month and who may qualify for incentive pay under the provisions of both sections 301(a) and 301(f) of title 37 of the United States Code:

(1) For periods of active duty, those prescribed by clause (4) of subsection (a) of this section.

(2) For periods of inactive-duty training, those prescribed by clause (4) of subsection (b) of this section.

However, the total flight requirements as determined by clauses (1) and (2) of this subsection may be met at any time during such calendar month—

(i) on inactive-duty training, or  
(ii) on active-duty and inactive-duty training, if the inactive-duty flight requirement for such month has been met.

SEC. 105. Members shall not be entitled to receive incentive pay for participation in aerial flights for any period while suspended from such participation, unless

such suspension is subsequently removed and the minimum flight requirements prescribed in section 104 hereof have been complied with, except as otherwise provided in section 110 and 114 hereof.

SEC. 106. (a) As determined by the Secretary of the Navy, a member who is entitled to basic pay, who holds or is in training leading to a submarine duty designator, and who is in and remains in the submarine service on a career basis, is entitled to continuous monthly submarine duty incentive pay, subject to the performance of the required number of years of operational submarine duty (37 U.S.C. 301c(a)(3)–(4)), except as provided by 37 U.S.C. 301c(c).

(b) As determined by the Secretary of the Navy, a member who is entitled to basic pay but is not entitled to continuous monthly submarine duty incentive pay is entitled to submarine duty incentive pay for any period during which such member performs frequent and regular operational submarine duty required by orders.

(c) To the extent provided for by appropriations, a member of the Naval Reserve who is entitled to compensation under Section 206 of Title 37 of the United States Code, and who performs, under orders, duty on a submarine during underway operations, is eligible for an increase in such compensation equal to one-thirtieth of the monthly submarine duty incentive pay for the performance of that duty by a member of a corresponding grade and years of service who is entitled to basic pay when those orders specify such increased entitlement. Such 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.

(d) The Secretary of the Navy is hereby designated and empowered to issue additional implementing regulations with respect to entitlement of regular and reserve officers and enlisted members of the Navy to submarine duty incentive pay, or continuous monthly submarine duty incentive pay.

SEC. 107. (a) Members who are qualified as glider personnel under such regulations as the Secretary concerned may prescribe, or who are undergoing training for such qualification, and who are required by competent orders to participate frequently and regularly in glider flights shall be required to perform one or more glider flights, without regard to duration thereof, during any three consecutive calendar months in order to be entitled to receive incentive pay for such period.

(b) Whenever, under authority conferred by the Secretary concerned, the commanding officer of any member who has been required by competent orders to participate frequently and regularly in glider flights certifies that on account of the absence or inadequacy of glider equipment or towing aircraft or other means of propulsion, or on account of military operations of the particular command, such member was unable to perform the glider flights required by this section, such member may comply with the minimum flight requirements by performing four or more glider flights, without regard to duration thereof, during a period of 12 consecutive calendar months, and such requirements may be met at any time during such period.

(c) Members of reserve components of the uniformed services who have complied with the requirement prescribed in this section shall be entitled to receive incentive pay for both active-duty and inactive-duty training performed during such period.

SEC. 108. (a) As used in section 301(a) of title 37 of the United States Code, the term “duty involving parachute jumping as an essential part of military duty” shall be construed to mean duty performed by members who, under such regulations as the Secretary concerned may prescribe, have received a rating as a parachutist or parachute rigger, or are undergoing training for such a rating, and who are required by competent orders to engage in parachute jumping from an aircraft in aerial flight.

(b) Members required by competent orders to engage in parachute jumping shall be required to perform one or more parachute jumps from an airplane in flight

during any three consecutive calendar months in order to be entitled to receive incentive pay for such period.

(c) Whenever, under authority conferred by the Secretary concerned, the commanding officer of any member who has been required by competent orders to participate in parachute jumping certifies that on account of the absence of jump equipment or aircraft or on account of military operations of the particular command such member was unable to make the jumps required by this subsection, such member may comply with the minimum requirements by performing four jumps during a period of 12 consecutive calendar months, and such requirements may be met at any time during such period. The minimum requirements may be waived by the commanding officer of a member for any period that the member is unable to perform the required jumps by reason of being engaged in combat operations in a hostile fire area designated under Section 310 of Title 37 of the United States Code.

(d) Members of reserve components of the uniformed services who have complied with requirements prescribed in this section shall be entitled to receive incentive pay for both active-duty and inactive-duty training performed during such period.

SEC. 109. As used in section 301(a) of title 37 of the United States Code—

(a) The term “duty involving intimate contact with persons afflicted with leprosy” shall be construed to mean duty performed by any member who is assigned by competent orders to a leprosarium for the performance of duty for a period of 30 days or more or for a period of instruction, whether or not such leprosarium is under the jurisdiction of one of the uniformed services.

(b) The term “duty involving the demolition of explosives” shall be construed to mean duty performed by members who, pursuant to competent orders and as a primary duty assignment (1) demolish by the use of explosives objects, obstacles, or explosives, or recover and render harmless, by disarming or demolition, explosives which have failed to function as intended or which have become a potential hazard; (2) participate as students or instructors in instructional training, including that in the field or fleet, for the duties described in clause (1) hereof, provided that live explosives are used in such training; (3) participate in proficiency training, including that in the field or fleet, for the maintenance of skill in the duties described in clause (1) hereof, provided that live explosives are used in such training; or (4) experiment with or develop tools, equipment, or procedures for the demolition and rendering harmless of explosives, provided that live explosives are used.

(c) The term “duty inside a high- or low-pressure chamber” shall be construed to mean duty performed within pressure chambers at physiological facilities by members assigned to that duty.

(d) The term “duty as human acceleration or deceleration experimental subject” shall be construed to mean duty performed by members exposed as human acceleration or deceleration experimental subjects utilizing experimental acceleration or deceleration devices.

(e) The term “duty as human test subject in thermal stress experiments” shall be construed to mean duty performed by members exposed as human thermal experimental subjects in thermal stress experiments conducted under the supervision of any laboratory designated by the Secretary concerned.

(f) The term “duty 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” shall be construed to mean duty performed by members who are designated for and ordered to such duty by competent authority from among the crew of a ship from which aircraft are launched or an aviation unit operating from that type of ship, and who, in any calendar month (1) participate in flight operations on the flight deck during a minimum of four days, or (2) participate, on

the flight deck, in a minimum number of aircraft launches or recoveries, or both, that is prescribed by the Secretary concerned as the equivalent of participation under clause (1). No member shall be entitled, however, to receive the pay provided for in this subsection if, during any month or portion thereof, he is also eligible to receive incentive pay for other hazardous duty under the provisions of Section 301 of Title 37, United States Code.

(g) The term “duty involving the servicing of aircraft or missiles with highly toxic fuels or propellants or the testing of aircraft or missile systems (or components of such systems) during which highly toxic fuels or propellants are used” shall be construed to mean duty performed by members as a primary duty that requires (1) removal, replacement, and servicing of the emergency power unit of an aircraft with H-70 propellant (30 percent water, 70 percent hydrazine); (2) participation by those personnel performing duties described in (g)(1) who must also participate in an emergency response force, spill containment, or spill cleanup involving H-70 propellant (30 percent water, 70 percent hydrazine); (3) handling and maintaining the liquid propellants (liquid oxidizer-nitrogen tetroxide; unsymmetrical dimethyl hydrazine) used in the Titan weapon system, if such duty requires qualification in the use of the Rocket Fuel Handler's Clothing Outfit and involves (A) launch duct operations, including flow, pressurization, on-load, set-up or tear down involving propellant transfer operations; (B) set-up, installation or tear down for fuel/oxidizer flow; (C) decontamination of equipment, including, but not limited to, the Rocket Fuel Handler's Clothing Outfit; (D) venting or pressurizing missile fuel or oxidizer tanks; (E) removing or replacing missile components while missile fuel and oxidizer tanks are loaded with such propellants; (F) transferring propellants between commercial and military holding trailers, or between holding trailers and fuel/oxidizer pump rooms; or normal preventive maintenance activities including, but not limited to, seal changes; (4) handling and maintaining the propellants, unsymmetrical dimethyl hydrazine and inhibited red-fuming nitric acid, used in the LANCE missile system; (5) handling, transporting or working with toxic fuels/propellants by members assigned to the Air Force Rocket Propulsion Lab (AFRPL) who (A) directly manage and inspect the activities of crew members conducting operations involving experimental rocket propulsion systems and components; (B) directly monitor and set up measurement instruments in operational areas where contamination is suspected or may be physically present; (C) install and remove instrumentation devices from propulsion systems and components; (D) perform final test preparation and immediate safety inspection duties around pressurized, active systems during prerun and post-run test periods; or, (E) install and repair electrical systems; (6) handling, loading/unloading and transporting toxic fuels and oxidizers at the precision sled track while working with the liquid rocket sled, which uses JP-X (a mixture of jet fuel (JP-4) and unsymmetrical dimethyl hydrazine) and red-fuming nitric acid and a propulsion; or (7) involvement with other toxic substances contained in missile or aircraft weapon system fuels or propellants as determined by the Secretary concerned. The entitlement to the pay provided for in this subsection is based upon the performance of such duty which has the potential for accidental or inadvertent exposure to highly toxic fuels or propellants or related substances and not upon actual quantifiable exposure to such substances. Therefore, neither this construction of the term nor the receipt of the pay provided for in this subsection may be construed as indicating that any person entitled to such pay has been actually exposed to highly toxic fuels or propellants or related substances contrary to the provisions of any statute, Executive order, rule, or regulation relating to health or safety which is applicable to the uniformed services.

(h) The term “duty involving frequent and regular exposure to highly toxic pesticides” shall be construed to

mean duty performed by members who, while under competent orders assigning such members to the entomology, pest control, pest management, or preventive medicine functions of a uniformed service for a period of 30 consecutive days or more, are required to perform in any calendar month a fumigation task utilizing (1) phosphine, sulfuryl fluoride, hydrogen cyanide, methyl bromide, or (2) a fumigant of comparable high acute toxicity and hazard potential. The use of solid fumigant formulations, such as aluminum phosphide, magnesium phosphide and calcium cyanide, in the outdoor control of burrowing animals does not qualify a member for incentive pay under this subsection.

(i) The term "duty involving laboratory work that utilizes live dangerous viruses or bacteria" shall be construed to mean primary duty performed by members who work with micro-organisms (1) that cause disease (A) with a high potential for mortality, and (B) for which effective therapeutic procedures are not available, and (2) for which no effective prophylactic immunization exists, while such members are assigned by competent orders for a period of 30 consecutive days or more to participate in or conduct applied or basic research that is characterized by a changing variety of techniques, procedures, equipment, and experiments.

(j) The term "the handling of chemical munitions (or components of such munitions)" shall be construed to mean duty performed by members as a primary duty which routinely requires (1) direct physical handling of toxic chemical munitions incident to storage, maintenance, testing, surveillance, assembly, disassembly, demilitarization, or disposal of said munitions; (2) direct physical handling of chemical surety material, as defined by the Secretary concerned, incident to manufacture, storage, testing, laboratory analysis, detoxification, or disposal of said material; (3) direct physical handling of toxic chemical munitions incident to technical escort of shipments of said munitions; (4) direct physical handling of chemical surety material, as defined by the Secretary concerned incident to technical escort of shipments of said material. The term does not include the handling of the individual components of binary chemical agents or munitions. The term does not include user handling incident to loading, firing, or otherwise launching the toxic chemical munitions nor field storage operations during hostilities. The term also excludes the handling of Research, Development, Testing and Evaluation Dilute Solutions of toxic chemicals as defined by the Secretary concerned. It also excludes the handling of riot control agents, chemical defoliants and herbicides, smoke, flame and incendiaries, and industrial chemicals. The entitlement to the pay provided for in this subsection is based upon the performance of such duty that has the potential for accidental exposure to chemical agents and not upon actual quantifiable exposure to such agents. Therefore, neither the construction of the term nor the receipt of pay provided for in this subsection may be construed as indicating that any person entitled to such pay actually has been exposed to chemical agents contrary to the provisions of any statute, executive order, rule, or regulations relating to the health and safety which is applicable to the uniformed services.

SEC. 110. Any member who is required by competent orders to perform hazardous duty, or multiple hazardous duties, and who becomes injured or otherwise incapacitated as a result of the performance of any such hazardous duty, by aviation accident or otherwise, shall be deemed to have fulfilled all of the requirements for the performance of all hazardous duties which he is required by competent orders to perform, for a period not to exceed three months following the date as of which such incapacity is determined by the appropriate medical authority.

SEC. 111. Members required by competent orders to perform hazardous duty shall, upon compliance with the requirements of these regulations, be entitled to receive incentive pay during authorized leaves of absence.

SEC. 112. Under such regulations as the Secretary concerned may prescribe, a member who performs multiple hazardous duties under competent orders may be paid not more than two payments of incentive pay for a period of time during which he qualifies for more than one such payment. Dual payments of incentive pay shall be limited to those members who are required by competent orders to perform specific multiple hazardous duties in order to carry out their assigned missions.

SEC. 113. The Secretaries concerned are hereby authorized to prescribe such supplementary regulations not inconsistent herewith as they may deem necessary or desirable for carrying out these regulations, and such supplementary regulations shall be uniform for all the services to the fullest extent practicable.

SEC. 114. Under such regulations as the Secretary of Defense and the Secretary of Transportation may prescribe with respect to enlisted members within their respective jurisdictions, any enlisted member who has been required by competent orders to perform duty as a crew member involving frequent and regular participation in aerial flight shall, if he is involuntarily removed from the performance of that duty, under circumstances prescribed by such regulations with less than 120 days' advance notice, be deemed to have fulfilled all of the requirements for payment of incentive pay under section 301(a)(1) or (f) of title 37 of the United States Code, for that duty for up to 120 days after the date on which he was notified of such removal.

#### PART II—SPECIAL PAY FOR SEA DUTY AND DUTY AT CERTAIN PLACES

SEC. 201. (a) The following members of a uniformed service who are entitled to receive basic pay shall be entitled to receive, additionally, career sea pay while on sea duty:

- (1) enlisted members who are in pay grade E-4 or above,
- (2) warrant officers,
- (3) commissioned officers in pay grade O-3 or above who have over three years of sea duty, and
- (4) commissioned officers in pay grades O-1 and O-2 with at least four years active service as enlisted members or as noncommissioned warrant officers and over three years of sea duty.

(b) The period of sea duty shall include the date of reporting and the date of detachment as stated in orders. Career sea pay shall be at the rates prescribed in Section 305a of Title 37 of the United States Code.

SEC. 202. A member of a uniformed service who is entitled to career sea pay and who has served 36 consecutive months of sea duty as such period is computed under regulations of the Secretary concerned, is entitled to a monthly career sea pay premium for the thirty-seventh consecutive month and each subsequent consecutive month of sea duty service by such member when such member is entitled to career sea pay. In the regulations published by the Secretary concerned, the term "consecutive months of sea duty" may be defined to include periods during which a member is serving in or under orders to duties, service in which qualifies the member for career sea pay, either periodically or continuously during assignment to such duties. Examples of such periods are periods of service as a member of a two crewed submarine or fleet aviation units assigned to ships, or periods for training, hospitalization, or other periods of a similar nature.

SEC. 203. The Secretaries concerned (within the meaning of section 101(5) of title 37, United States Code) with respect to personnel of the uniformed service within their respective departments, are hereby authorized to prescribe such supplementary regulations, not inconsistent herewith, as they may deem necessary or desirable for carrying out the provisions of sections 305 and 305a of title 37 and this Executive Order. Such regulations shall be uniform for all the services to the fullest extent possible.

SEC. 204. Enlisted members entitled to receive basic pay shall be entitled to receive, additionally, pay at the rates prescribed by section 305(a) of title 37 of the United States Code while on duty at places that are outside the 48 contiguous States and the District of Columbia and that are designated for this purpose by the Secretary of Defense or, in the case of enlisted members of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Transportation. Subject to provisions of section 305 of title 37 of the United States Code, an enlisted member who is permanently assigned to duty at a place so designated is entitled to receive that pay during a period of authorized leave, temporary additional duty, temporary duty, or hospitalization or while on an operational aircraft flight, but not more than 30 days while he is away from that place. Enlisted members shall be entitled to special pay under this section when attached to ships undergoing repair and overhaul in designated foreign-duty areas for extended periods when entitlement to special pay for sea duty has been terminated. Such enlisted members shall be entitled to special pay for sea duty under the same conditions as an enlisted member on temporary additional duty or temporary duty in that designated foreign-duty area.

SEC. 205. Unless otherwise entitled to special pay in accord with the second sentence of section 204 hereof, during periods spent on temporary additional duty or temporary duty or on operational aircraft flights, pay in accord with section 204 shall accrue to enlisted members only for periods of eight continuous days or more in duration at one or more places designated, including the dates of arrival at and the dates of departure from those places.

SEC. 206. (a) No enlisted member shall be entitled under this order to receive both career sea pay and pay for duty prescribed in sections 204 and 205 hereof for the same period of time.

(b) [Deleted by Ex. Ord. No. 12274, Jan. 16, 1981, 46 F.R. 5855]

#### PART III—BASIC ALLOWANCES FOR SUBSISTENCE

SEC. 301. Enlisted members who are being subsisted in kind in a mess and whose duties require them to be absent from their station during one or more meals shall be entitled for each such meal to a prorated share of the daily basic allowance for subsistence authorized for members on duty at stations where rations in kind are not available. The Secretary of Defense, the Secretary of Transportation, and the Secretary of Commerce are hereby authorized to establish the amount of the prorated share of the daily basic allowance for subsistence applicable to each one of the three daily meals, which amount shall be uniform for all the services concerned. The total of the amounts of the shares for the three daily meals shall not exceed the amount of the basic daily allowance for subsistence authorized by section 402 of title 37 of the United States Code.

SEC. 302. The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, and the Secretary of Health and Human Services with respect to the personnel of the uniformed services within their respective agencies, are hereby authorized, subject to the provisions of section 303 hereof, to prescribe such supplemental regulations, inconsistent herewith, as they may deem necessary or desirable for carrying out the provisions of this part and of the said section 402 of title 37 of the United States Code: *Provided*, That such regulations shall be uniform so far as practicable for all the services concerned.

SEC. 303. As used in regulations prescribed pursuant to section 302 hereof, those terms of the said section 402 of title 37 of the United States Code which are quoted in the subsections of this section shall have the meaning or application stated with respect thereto:

(a) The term "entitled to receive basic pay" shall be considered applicable to members while they are on the active list or while they are required to perform duty

in accordance with law for which they are entitled to basic pay: *Provided*, that such term shall not be applicable to any member while absent from duty under conditions which, under laws governing the particular service concerned, would prevent him from receiving full basic pay.

(b) The term "when rations in kind are not available" shall be considered applicable in the case of enlisted members on duty at stations where it is determined, in accordance with regulations prescribed pursuant to section 302 hereof, that it is impracticable for subsistence in kind to be furnished by the United States.

(c) The term "when permission to mess separately is granted" shall be considered applicable in the case of enlisted members on duty at stations or while sick in hospitals where a mess for subsisting enlisted members is available and when such enlisted members are authorized to subsist themselves independently. Such term shall also be considered applicable in the case of enlisted members during all periods of authorized leave, including periods of leave or delay while en route between duty stations.

(d) The term "when assigned to duty under emergency conditions where no messing facilities of the United States are available" shall be considered applicable in the case of enlisted members assigned to duty under conditions requiring extraordinary expenses for subsistence as determined in accordance with regulations prescribed pursuant to section 302 hereof.

(e) The term "field duty" for purposes of the third sentence of subsection (b) of Section 402 of Title 37, United States Code, shall mean service by a member when the member is subsisted in a Government mess or with an organization drawing field rations, and the member is serving with troops on maneuvers, war games, field exercises, or similar types of operations.

(f) The term "sea duty" for purposes of the third sentence of subsection (b) of Section 402 of Title 37, United States Code, shall mean service performed by a member in a self-propelled vessel that is in an active status, in commission or in service and is equipped with berthing and messing facilities.

#### PART IV—BASIC ALLOWANCE FOR QUARTERS

SEC. 401. As used in this part:

(a) The term "entitled to receive basic pay" shall apply to a member while on the active list or while required to perform duty in accordance with law for which he is entitled to basic pay: *Provided*, That such term shall not apply to any member while absent from duty under conditions which, under laws governing the particular service concerned, would prevent him from receiving full basic pay.

(b) The term "field duty" shall mean service with troops on maneuvers, war games, field exercises, or similar types of operations.

(c) The term "sea duty" shall mean service performed by either an officer or enlisted member in a self-propelled vessel that is in an active status, in commission or in service and is equipped with berthing and messing facilities. Duty for less than three months is not considered to be sea duty. Duty for more than three months under temporary orders which provide for return to the member's same permanent station is not considered sea duty.

(d) The term "permanent station" shall mean the place on shore where a member is assigned to duty, or the home yard or the home port of a ship in which a member is required to perform duty, under orders in each case which do not in terms provide for the termination thereof; and any station on shore or any receiving ship where a member is assigned and in fact occupies, with his dependents, if any, quarters under the jurisdiction of any of the uniformed services shall also be deemed during such occupancy to be his permanent station: *Provided*, That in the case of members of the National Guard, the Air National Guard or reserve components of any of the uniformed services on active duty

for training, the place where the training duty is being performed shall be deemed to be the permanent station of such members for the purposes of these regulations.

(e) The term "deployed" shall apply to time during which the unit is at sea or in a port more than 50 miles from its home port; provided, however, time during which the unit is in a port for overhaul or extended repairs is not to be considered deployed time. Unanticipated overhauls or extended repairs which occur during a period scheduled as extended deployment in the mission assignment of the ship is time deployed unless otherwise classified by appropriate command authority.

(f) [Deleted by Ex. Ord. No. 12541, Dec. 30, 1985, 51 F.R. 585]

SEC. 402. Except as otherwise by statute heretofore or hereafter provided, a member shall be entitled to payment of basic allowances for quarters, in accordance with these regulations and any regulations prescribed pursuant hereto, during such time or times as he is entitled to receive basic pay.

SEC. 403. (a) Any quarters of housing facilities under the jurisdiction of any of the uniformed services in fact occupied without payment of rental charges (1) by a member and his dependents, or (2) by a member without dependents, or (3) by the dependents of a member on field duty or on sea duty or on duty at a station where adequate quarters are not available for his dependents, shall be deemed to have been assigned to such member as appropriate and adequate quarters, and no basic allowance for quarters shall accrue to such member under such circumstances unless the occupancy (A) occurs while such member is in a duty or leave status incident to a change of permanent station and is of a temporary nature under standards prescribed by regulations issued by the Secretary of Defense in the case of members of the Army, Navy, Air Force, or Marine Corps, and the reserve components thereof, or by the appropriate Secretary in the case of members of the other uniformed services, or (B) occurs while such member is in a duty or leave status not incident to a change of permanent station and does not exceed thirty consecutive days at one location: Provided, That occupancy of quarters under such circumstances for a period in excess of such 30-day period or such other temporary period as may be authorized under standards prescribed by regulations issued by the Secretary concerned shall not result in a forfeiture of basic allowance for quarters for such 30-day or other authorized period: Provided, further, That this paragraph shall not apply to occupancy of quarters as a guest of another member.

(b) Whenever the President exercises his authority under Section 1009(c) of Title 37 of the United States Code, to allocate up to 25 percent of certain increases in basic pay to basic allowances for quarters, a member without dependents who, under Section 403(b) or (c) of that title, is not entitled to a basic allowance for quarters shall become entitled to a portion of such basic allowance for quarters. The amount of such partial basic allowance for quarters shall equal the amount of any increases in basic pay which are allocated by the President to the basic allowance for quarters.

(c) For purposes of Section 403 of Title 37 of the United States Code, a member shall be deemed to be living in a "high housing cost area" whenever the average monthly cost of housing, including utilities, for housing appropriate for the member's grade, exceeds 115 percent of the amount of the basic allowance for quarters of that member.

(d) During fiscal year 1981, members may be paid variable housing allowance as permitted by Section 4(c) of the Military Personnel and Compensation Amendments of 1980 (94 Stat. 1125; Public Law 96-343; 37 U.S.C. 403 note); a member shall be deemed to be living in a "high housing cost area" whenever the estimated average monthly cost of housing, including utilities, appropriate for the member's grade, exceeds 115 percent of the amount of the basic allowance for quarters of that member.

SEC. 404. When adequate quarters for his dependents are not available for assignment at his permanent station to a member with dependents, he may occupy quarters of the United States designated for members without dependents without affecting his right to receive payment of basic allowances for quarters, if permitted or required to occupy quarters at such station. Under such circumstances, a member may not occupy quarters of the United States which exceed the minimum standards for members of his grade without dependents, as prescribed by the Secretary concerned, unless the only quarters available (a) exceed the minimum standards, and (b) are made available for joint occupancy with other members.

SEC. 405. A member away from his permanent station may occupy quarters of the United States designated for members without dependents at his temporary duty station without affecting his right to receive payment of basic allowances for quarters or assignment of quarters, if any, at his permanent station. Under such circumstances, a member may not occupy quarters of the United States which exceed the minimum standards for members of his grade without dependents, as prescribed by the Secretary concerned, unless the only quarters available (a) exceed the minimum standards, and (b) are made available for joint occupancy with other members.

SEC. 406. A member serving outside the United States, its territories, or possessions in a duty assignment which has official or diplomatic responsibilities involving officials of foreign governments may be assigned quarters in excess of the minimum standards set forth in sections 404 and 405 hereof, as prescribed by the Secretary concerned: *Provided*, That no such quarters shall be available on a continuous basis for single occupancy, if such quarters are otherwise adequate for assignment as family housing to members of similar rank.

SEC. 407. The Secretaries concerned (within the meaning of section 101(5) of title 37 of the United States Code), with respect to personnel of the uniformed services within their respective departments, are hereby authorized to prescribe such supplementary regulations not inconsistent herewith as they may deem necessary or desirable for carrying out these regulations, and such supplementary regulations shall be uniform for all the services to the fullest extent practicable.

#### PART V—GENERAL PROVISIONS

SEC. 501. For the purpose of these regulations, the terms defined in sections 101 and 401 of title 37 of the United States Code shall have the meanings prescribed therein.

SEC. 502. The following Executive orders are revoked:

- (a) Executive Order No. 10119 of March 27, 1950.
- (b) Executive Order No. 10152 of August 17, 1950.
- (c) Executive Order No. 10168 of October 11, 1950.
- (d) Executive Order No. 10204 of January 15, 1951.
- (e) Executive Order No. 10605 of April 22, 1955.
- (f) Executive Order No. 10618 of June 28, 1955.
- (g) Executive Order No. 10681 of October 22, 1956.
- (h) Executive Order No. 10739 of November 15, 1957.
- (i) Executive Order No. 10821 of May 20, 1959.
- (j) Executive Order No. 10892 of November 8, 1960.
- (k) Executive Order No. 10989 of January 22, 1962.
- (l) Executive Order No. 11120 of October 2, 1963.
- (m) Executive Order No. 11146 of March 13, 1964.

#### CROSS REFERENCES

Prohibition against receiving special pay for diving duty and incentive pay simultaneously, see section 304 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 304, 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 Transportation 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 commence at the completion of 18 years of aviation service upon completion of the minimum operational flying duty requirements, such pay to continue for a period of time as prescribed in accordance with this section. However, if entitlement to continuous monthly incentive pay ceases in the case of any officer at the completion of either 12 or 18 years of aviation service, such officer remains entitled to monthly incentive pay for the performance of subsequent operational or proficiency flying duties up to the maximum period of time prescribed in accordance with this section.

(6) In this section:

(A) The term "aviation service" means service performed by an officer (except a flight surgeon or other medical officer) while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.

(B) The term "operational flying duty" means flying performed under competent orders by rated or designated members while serving in assignments in which basic flying skills normally are maintained in the performance of assigned duties as determined by the Secretary concerned, and flying performed by members in training that leads to the award of an aeronautical rating or designation.

(C) The term "proficiency flying duty" means flying performed under competent orders by rated or designated members while serving in assignments in which such skills would normally not be maintained in the performance of assigned duties.

(D) The term "officer" includes an individual enlisted, and designated, as an aviation cadet under section 6911 of title 10.

(b)(1) A member who satisfies the requirements described in subsection (a) is entitled to monthly incentive pay as follows:

Years of aviation service (including flight training) as an officer:	Monthly rate
2 or less .....	\$125
Over 2 .....	\$156
Over 3 .....	\$188
Over 4 .....	\$206
Over 6 .....	\$650
Over 14 .....	\$840
Over 22 .....	\$585
Over 23 .....	\$495
Over 24 .....	\$385
Over 25 .....	\$250

(2) An officer in a pay grade above O-6 is entitled, until the officer completes 25 years of aviation service, to be paid at the rates set forth in the table in paragraph (1), except that—

(A) an officer in pay grade O-7 may not be paid at a rate greater than \$200 a month; and

(B) an officer in pay grade O-8 or above may not be paid at a rate greater than \$206 a month.

(3) For a warrant officer with over 22, 23, 24, or 25 years of aviation service who is qualified

under subsection (a), the rate prescribed in the table in paragraph (1) for officers with over 14 years of aviation service shall continue to apply to the warrant officer.

(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.)

AMENDMENTS

1998—Subsec. (a)(4). Pub. L. 105-261, §615(c)(1)(A), substituted “22 years of aviation service of the officer” for “22 years of the officer’s service as an officer” and “25 years of aviation service” for “25 years of service as an officer (as computed under section 205 of this title)”.

Subsec. (a)(6). Pub. L. 105-261, §615(a)(1), added subpar. (A) and redesignated former subpars. (A) to (C) as (B) to (D), respectively.

Subsec. (b). Pub. L. 105-261, §615(d), repealed section 615 of Pub. L. 105-85. See 1997 Amendment note below.

Pub. L. 105-261, §615(b), amended subsec. (b) generally, substituting pars. (1) to (3) for former pars. (1) and (2).

Subsec. (d). Pub. L. 105-261, §615(c)(1)(B), substituted “subsection (b) for the performance of that duty by a member with corresponding years of aviation service” for “subsection (b)(1) or (2), as the case may be, for the performance of that duty by a member of corresponding years of aviation or officer service, as appropriate.”

1997—Subsec. (b)(1). Pub. L. 105-85, §615(b), substituted “22 years” for “18 years” in two places in provisions after phase II table.

Pub. L. 105-85, §615(a), which directed amendment by inserting at the end of phase I of the table the following:

“Over 14 ..... 840”;

and by striking out phase II of the table and inserting in lieu thereof the following:

“Phase II

“Years of service as an officer:	“Monthly rate
“Over 22 .....	585
“Over 23 .....	495
“Over 24 .....	385
“Over 25 .....	250”.

was repealed by Pub. L. 105-261, §615(d).

1996—Subsec. (a)(4). Pub. L. 104-106, §616(a), substituted “8” for “9” before “of the first 12”.

Subsec. (a)(5). Pub. L. 104-106, §616(b), inserted “The Secretary concerned may not delegate the authority in the preceding sentence to permit the payment of incentive pay under this subsection.” after second sentence.

1993—Subsec. (a)(4). Pub. L. 103-35 made technical amendment to directory language of Pub. L. 101-189, §631(a)(1). See 1989 Amendment note below.

1991—Pub. L. 102-25 struck out “of this section” wherever appearing and struck out “of this subsection” in subsec. (b)(2).

1990—Subsec. (e). Pub. L. 101-510 struck out subsec. (e) which read as follows: “The Secretary of Defense shall report to Congress before October 1 each year the number of rated members by pay grade who—

“(1) have 12 or 18 years of aviation service, and of those numbers, the number who are entitled to continuous monthly incentive pay under subsection (a) of this section; and

“(2) are performing operational flying duties, proficiency flying, and those not performing flying duties.”

1989—Subsec. (a)(4). Pub. L. 101-189, §631(a), as amended by Pub. L. 103-35, §204(c), substituted “9 of the first 12, and 12 of the first 18 years of the aviation service of the officer” for “6 of the first 12, and 11 of the first 18, years of his aviation service”, “at least 10 but less than 12 of the first 18 years of the aviation service of the officer, the officer” for “at least 9 but less than 11 of the first 18 years of his aviation service, he”, and “the officer’s service as an officer” for “his officer service”.

Subsec. (a)(5). Pub. L. 101-189, §631(b), inserted after first sentence “For the needs of the service, the Secretary concerned may permit, on a case by case basis, an officer to continue to receive continuous monthly incentive pay despite the failure of the officer to perform the prescribed operational flying duty requirements during the prescribed periods of time so long as

the officer has performed those requirements for not less than 6 years of aviation service.”

Subsec. (b)(1). Pub. L. 101-189, § 631(c)(1), in phase I table, substituted “650” for “400” in item relating to over 6 years, and in phase II table, struck out “as computed under section 205” after “an officer” in table heading, substituted “\$585” for “\$370”, “495” for “340”, and “385” for “310”, in items relating to over 18 years, over 20 years, and over 22 years, respectively, and struck out item relating to a monthly rate of \$280 for over 24 years.

Subsec. (b)(2). Pub. L. 101-189, § 631(c)(2), in table, substituted “650” for “400” in item relating to over 6 years.

Subsec. (f). Pub. L. 101-189, § 631(d), added subsec. (f). 1987—Subsec. (a)(6). Pub. L. 100-26, which directed that par. (6) of this section be amended, was executed to par. (6) of subsec. (a) of this section, to reflect the probable intent of Congress by substituting “In this section:” for “For the purposes of this section, the term—”, inserting “The term” at beginning of subpars. (A) to (C), and substituting period for semicolon at end of subpar. (A) and period for “; and” at end of subpar. (B).

1986—Subsec. (a)(6)(C). Pub. L. 99-661, § 632(a)(1), added subpar. (C).

Subsec. (b)(1). Pub. L. 99-661, § 632(a)(2), substituted “a member” for “an officer in pay grades O-1 through O-10”.

1981—Subsec. (a)(4). Pub. L. 97-60, § 112(a), inserted provision that entitlement to continuous monthly incentive pay ceases for an officer (other than a warrant officer) upon completion of 25 years of service as an officer (as computed under section 205 of this title), but such an officer in a pay grade below pay grade O-7 remains entitled to monthly incentive pay under subsection (b)(1) of this section for the performance of operational flying duty.

Subsec. (b)(1), (2). Pub. L. 97-60, § 112(b), amended table to reflect an upward adjustment in monthly incentive pay.

1980—Subsec. (a)(3). Pub. L. 96-513 substituted “Health and Human Services” for “Health, Education, and Welfare”.

Subsec. (b)(1). Pub. L. 96-343, § 2(b)(1), (2), substituted in phase I table, “\$125”, “\$156”, “\$188”, “\$206”, and “\$306” for “\$100”, “\$125”, “\$150”, “\$165”, and “\$245” in items relating to 2 or less years, over 2 years, over 3 years, over 4 years, and over 6 years, respectively, in phase II table, “\$281”, “\$256”, “\$231”, and “\$206” for “\$225”, “\$205”, “\$185”, and “\$165” in items relating to over 18 years, over 20 years, over 22 years, and over 24 but not over 25 years, respectively, and “\$200” and “\$206” for “\$160” and “\$165”, respectively.

Subsec. (b)(2). Pub. L. 96-343, § 2(b)(3), substituted “\$125”, “\$138”, and “\$250” for “\$100”, “\$110”, and “\$200” in items relating to 2 or less years, over 2 years, and over 6 years, respectively.

1976—Subsec. (e). Pub. L. 94-273 substituted “October” for “July”.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Section 615(c) of Pub. L. 105-85, which provided that the amendments made by section 615(a) of Pub. L. 105-85 to this section were to take effect on Jan. 1, 1999, and were to apply with respect to months beginning on or after that date, was repealed by Pub. L. 105-261, div. A, title VI, § 615(d), Oct. 17, 1998, 112 Stat. 2041.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 204(c) of Pub. L. 103-35 provided that the amendment made by that section is effective Nov. 29, 1989.

#### EFFECTIVE DATE OF 1989 AMENDMENT; TRANSITION

Section 631(e), (f) of Pub. L. 101-189 provided that:“(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made—

“(A) by subsection (c) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 29, 1989]; and

“(B) by subsections (a), (b), and (d) [amending this section] shall take effect on October 1, 1991.

“(2) The Secretary of a military department may delay, subject to the approval of the Secretary of Defense, the implementation of the amendments made by subsection (c) with respect to the department of that Secretary until such time as the Secretary concerned determines that implementation of those amendments is necessary to meet the needs of that department.

“(3) If the Secretary of a military department delays under paragraph (2) the implementation of the amendments made by subsection (c) beyond October 1, 1991, the Secretary may also delay implementation of the amendments made by subsections (a), (b), and (d) until the date on which the Secretary implements the amendments made by subsection (c). During the delay in implementation, the provisions of section 301a of title 37, United States Code, as in effect on the day before the date of the enactment of this Act, shall continue to apply in the case of such department to the payment of aviation career incentive pay under such section.

“(f) TRANSITION.—(1) An officer of a uniformed service who, as of the date the amendments made by subsections (a), (b), and (d) take effect with regard to the officer’s uniformed service—

“(A) has completed years of aviation service in an amount equal to one of the number of years of aviation service specified in column 1 of the following table; and

“(B) has performed, or subsequently performs, the prescribed operational flying duties (including flight training but excluding proficiency flying) during the number of years of aviation service specified in column 2 of such table and corresponding to the number of years of aviation service applicable to the officer under column 1,

shall be entitled to continuous monthly incentive pay at the rates provided in section 301a(b) of title 37, United States Code (as amended by this section)[.] until the officer completes the years of service as an officer specified in column 3 of such table and applicable to the officer.

“TABLE

COLUMN 1	COLUMN 2	COLUMN 3
Number of years of aviation service	Number of years performing operational flying duty	Entitlement to continuous monthly incentive pay through the following year of officer service
6 or more	At least 6 of the first 12 years of aviation service	18
6 or more	At least 9 but less than 11 of the first 18 years of aviation service	22
6 or more	At least 6 of the first 12 and at least 11 of the first 18 years of aviation service	25
At least 6 but less than 12	Less than 6 and subsequently completes 6 of the first 12 and 9 of the first 15 years of aviation service	18

“TABLE—Continued

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
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].”

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 en-

titled 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.”

EX. ORD. NO. 11800. DELEGATION OF PRESIDENT’S AUTHORITY

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, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States and Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense, the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Commerce and the Secretary of Health and Human Services, with respect to members of the uniformed service under their respective jurisdictions, are hereby designated and empowered to exercise, without approval, ratification, or other action by the President, the functions vested in the President by section 301a of title 37 of the United States Code, as added by section 2(3) of the Aviation Career Incentive Act of 1974 (Public Law 93-294; 88 Stat. 177) with respect to entitlement of regular and reserve officers of the uniformed services, including flight surgeons and other medical officers, to aviation career incentive pay for the frequent and regular performance of operational or proficiency flying duty.

SEC. 2. This order is effective as of June 1, 1974.

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, 1999, 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 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;

(3) is in a pay grade below pay grade O-6;

(4) is qualified to perform operational flying duty;

(5) has completed at least six but less than 13 years of aviation service; and

(6) has completed any active duty service commitment incurred for undergraduate aviator training.

(c) **AMOUNT OF BONUS.**—The amount of a retention bonus paid under this section may not be more than—

(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.

(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 14 years of commissioned 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). This paragraph applies to any case commenced under title 11 after January 1, 1989.

(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. 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.

(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 National Security 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 “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).

(4) The term “operational flying duty” has the meaning given such term in section 301a(a)(6)(A)<sup>1</sup> 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,

<sup>1</sup> See References in Text note below.

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.)

## REFERENCES IN TEXT

Section 301a(a)(6)(A) of this title, referred to in subsec. (j)(4), was redesignated section 301a(a)(6)(B) by Pub. L. 105-261, div. A, title VI, §615(a)(1)(A), Oct. 17, 1998, 112 Stat. 2040.

## AMENDMENTS

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 provisions relating to acceptance of agreements during the period beginning on Oct. 1, 1983, and ending on Sept. 30, 1987, and struck out provision setting forth that an officer who receives special pay pursuant to an agreement under this section is not entitled to aviation career incentive pay that exceeds the rate for such pay in effect on Sept. 30, 1981.

Subsec. (f). Pub. L. 100-180, §622(a)(3), substituted “September 30, 1989” for “September 30, 1987”.

1986—Subsec. (e)(3). Pub. L. 99-661, §631(a)(1), substituted “officer has completed less than eight years of active duty” for “officer has completed less than seven years of active duty”.

Subsec. (e)(4). Pub. L. 99-661, §631(a)(2), struck out par. (4) which read as follows: “An officer may not receive incentive pay under section 301 of this title for the performance of hazardous duty for any period of service which the officer is obligated to serve pursuant to an agreement entered into under this section.”

1985—Subsecs. (e)(2), (3), (f). Pub. L. 99-145 substituted “September 30, 1987” for “September 30, 1985”.

1984—Subsec. (e)(2). Pub. L. 98-525, §622(a)(1), substituted “During the period beginning on October 1, 1984, and ending on September 30, 1985, only agreements executed by officers of the Navy may be accepted under this section” for “During the period beginning on October 1, 1983, and ending on September 30, 1984, only agreements executed by officers of the Navy or Marine Corps who are pilots may be accepted under this section”.

Subsec. (e)(3). Pub. L. 98-525, §622(a)(2), substituted “September 30, 1985” for “September 30, 1984” in provisions preceding subpar. (A).

Subsec. (f). Pub. L. 98-525, §622(a)(2), substituted “September 30, 1985” for “September 30, 1984”.

1983—Subsec. (e)(2). Pub. L. 98-94, §904(a)(1), substituted “during the period beginning on October 1, 1983, and ending on September 30, 1984, only agreements executed by officers of the Navy or Marine Corps who are pilots may be accepted under this section” for “during the period beginning on the date of the enactment of the Uniformed Services Pay Act of 1981 and ending on September 30, 1982, only agreements executed by officers of the Navy or Marine Corps may be accepted under this section”.

Subsec. (e)(3), (4). Pub. L. 98-94, §904(a)(1), added pars. (3) and (4).

Subsec. (f). Pub. L. 98-94, §904(a)(2), substituted “September 30, 1984” for “September 30, 1982”.

1981—Subsecs. (e), (f). Pub. L. 97-60 added subsecs. (e) and (f).

## CHANGE OF NAME

Committee on National Security of House of Representatives changed to Committee on Armed Services

of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

#### 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."

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 to 308e, 308h, and 308i of this title and sections 2130a and 2172 [now 16302] of Title 10, Armed Forces] taken effect on October 1, 1992.

“(B) A person referred to in subparagraph (A) is a person who, during the period beginning on October 1, 1992, and ending on the date of the enactment of this Act, would have qualified for an agreement described in subparagraph (C) with the Secretary concerned had the amendments made by this section taken effect on October 1, 1992.

“(C) An agreement referred to in this paragraph is an agreement with the Secretary concerned for the payment of a bonus or special pay under section 301b, 302d, 302e, 308, 308a, 308b, 308c, 308e, 308h, or 308i of title 37, United States Code, or section 2130a of title 10, United States Code.

“(D) For purposes of this paragraph, the term ‘Secretary concerned’ has the meaning given that term in section 101(5) of title 37, United States Code.”

Section 612(a)(2) of Pub. L. 102-190 provided that:

“(A) In the case of an officer described in subparagraph (B) who executes an agreement under section 301b of such title [37 U.S.C. 301b] during the 90-day period beginning on the date of the enactment of this Act [Dec. 5, 1991], the Secretary concerned may treat such agreement as having been executed and accepted for purposes of such section on the first date on which the officer would have qualified for such an agreement had the amendment made by paragraph (1) [amending this section] taken effect on October 1, 1991.

“(B) An officer referred to in subparagraph (A) is an officer who, during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act, would have qualified for an agreement under such section had the amendment made by paragraph (1) taken effect on October 1, 1991.

“(C) For purposes of this paragraph, the term ‘Secretary concerned’ has the meaning given that term in section 101(5) of title 37, United States Code.”

Section 632(d) of Pub. L. 101-189 provided that:

“(1) In the case of an aviation officer described in paragraph (2) who executes an agreement under section 301b of title 37, United States Code, during the 90-day period beginning on the date of the enactment of this Act [Nov. 29, 1989], the Secretary concerned may deem such agreement to have been executed and accepted for purposes of such section on the first date on which the officer would have qualified for such an agreement had the amendment made by subsection (a) [amending this section] taken effect on October 1, 1989.

“(2) An aviation officer referred to in paragraph (1) is an officer who, during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act, would have qualified for an agreement under such section had the amendment made by subsection (a) taken effect on October 1, 1989.

“(3) For purposes of this subsection, the term ‘Secretary concerned’ has the meaning given that term by section 101(5) of title 37, United States Code.”

#### AVIATOR RETENTION BONUS

Pub. L. 100-456, div. A, title VI, §611, Sept. 29, 1988, 102 Stat. 1977, as amended by Pub. L. 101-189, div. A, title VI, §632(b), Nov. 29, 1989, 103 Stat. 1453, provided that a covered aviation officer who, during the period beginning on Jan. 1, 1989, and ending on Sept. 30, 1989, executed a written agreement to remain on active duty in aviation service for at least one year could, upon the acceptance of the written agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

#### SPECIAL PAY AS INDUCEMENT TO REMAIN ON ACTIVE DUTY; REPORT TO CONGRESS

Section 904(b) of Pub. L. 98-94 provided that:

“(1) It is the sense of the Congress that eligibility for special pay for aviation career officers under section 301b of title 37, United States Code, should be made available only to officers who will likely be induced to remain on active duty in aviation service by receipt of the special pay.

“(2) The Secretary of the Navy shall submit to the Congress not later than July 1, 1984, a written report, approved by the Secretary of Defense, on the payment of special pay for aviation career officers under section 301b of title 37, United States Code, since the date of the enactment of this Act [Sept. 24, 1983]. Such report shall include—

“(A) a list of the specific aviation specialties by aircraft type determined to be critical for purposes of the payment of special pay under such section since the date of the enactment of this Act;

“(B) the number of officers within each critical aviation specialty who received the special pay under such section since the date of the enactment of this Act by grade, years of prior active service, and amounts of special pay received under such section;

“(C) an explanation and justification for the Secretary’s designation of an aviation specialty as ‘critical’ and for the payment of special pay under section 301b of such title to officers who have more than eight years of prior active service and who are serving in pay grade O-4 or above, if payment of such pay was made to such officers; and

“(D) an evaluation of the progress made since the date of the enactment of this Act toward eliminating shortages of aviators in the aviation specialties designated by the Secretary as critical.”

#### § 301c. Incentive pay: submarine duty

(a)(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 set forth in 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 set forth in subsection (b) for any period during which such member performs frequent a 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 year 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 set forth in 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 pre-

scribed 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) A member who meets the requirements prescribed in subsection (a) is entitled to monthly submarine duty incentive pay as follows:

ENLISTED MEMBERS

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9 .....	\$225	\$225	\$225	\$270	\$295	\$310	\$315
E-8 .....	225	225	225	250	270	295	310
E-7 .....	225	225	225	250	255	265	275
E-6 .....	155	170	175	215	230	245	255
E-5 .....	140	155	155	175	190	195	195
E-4 .....	80	95	100	170	175	175	175
E-3 .....	80	90	100	170	175	175	90
E-2 .....	75	90	90	90	90	90	90
E-1 .....	75	75	75	75	75	75	75
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
E-9 .....	\$330	\$345	\$355	\$355	\$355	\$355	\$355
E-8 .....	315	330	330	345	345	345	345
E-7 .....	295	310	310	310	310	310	310
E-6 .....	265	265	265	265	265	265	265
E-5 .....	195	195	195	195	195	195	195
E-4 .....	175	175	175	175	175	175	175
E-3 .....	90	90	90	90	90	90	90
E-2 .....	90	90	90	90	90	90	90
E-1 .....	75	75	75	75	75	75	75

COMMISSIONED OFFICERS

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
O-10 .....	\$355	\$355	\$355	\$355	\$355	\$355	\$355
O-9 .....	355	355	355	355	355	355	355
O-8 .....	355	355	355	355	355	355	355
O-7 .....	355	355	355	355	355	355	355
O-6 .....	595	595	595	595	595	595	595
O-5 .....	595	595	595	595	595	595	595
O-4 .....	365	365	365	405	595	595	595
O-3 .....	355	355	355	390	595	595	595
O-2 .....	235	235	235	235	235	235	355
O-1 .....	175	175	175	175	175	175	355
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
O-10 .....	\$355	\$355	\$355	\$355	\$355	\$355	\$355
O-9 .....	355	355	355	355	355	355	355
O-8 .....	355	355	355	355	355	355	355
O-7 .....	355	355	540	535	535	410	355
O-6 .....	595	595	595	595	595	595	595
O-5 .....	595	595	595	595	595	595	595
O-4 .....	595	595	595	595	595	595	595
O-3 .....	595	595	595	595	595	595	595
O-2 .....	355	355	355	355	355	355	355
O-1 .....	355	355	355	355	355	355	355

WARRANT OFFICERS

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
W-5 .....	\$235	\$310	\$310	\$355	\$355	\$355	\$355
W-4 .....	235	310	310	355	355	355	355
W-3 .....	235	310	310	355	355	355	355
W-2 .....	235	310	310	355	355	355	355
W-1 .....	235	310	310	355	355	355	355
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
W-5 .....	\$355	\$355	\$355	\$355	\$355	\$355	\$355
W-4 .....	355	355	355	355	355	355	355
W-3 .....	355	355	355	355	355	355	355
W-2 .....	355	355	355	355	355	355	355
W-1 .....	355	355	355	355	355	355	355

(c)(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) 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 authorized by 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.)

#### AMENDMENTS

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]."

## 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 \$14,000 for each year covered by a four-year agreement. The maximum yearly retention bonus for two-year and three-year agreements shall be reduced to reflect the shorter service commitment.

(b) ELIGIBLE OFFICERS.—This section applies to an officer of the armed forces who—

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

(2) is in a pay grade below pay grade O-7;

(3) has at least eight years of creditable service (computed as described in section 302(g) of this title) or has completed any active-duty service commitment incurred for medical education and training; and

(4) has completed initial residency training (or will complete such training before September 30 of the fiscal year in which the officer enters into an agreement under subsection (a)).

(c) 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.)

## AMENDMENTS

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".

ELIGIBILITY OF FLAG AND GENERAL OFFICERS FOR  
MULTIYEAR RETENTION BONUS FOR MEDICAL OFFICERS

Pub. L. 102-190, div. A, title VI, §615, Dec. 5, 1991, 105 Stat. 1377, provided that:

"(a) REITERATING INELIGIBILITY.—The restriction contained in subsection (b)(2) of section 301d of title 37, United States Code, on the eligibility of flag and general officers serving as full-time physicians to receive a multiyear retention bonus under that section shall not be construed as being limited, modified, or superseded by any provision of law, whether enacted before, on, or after the date of the enactment of this Act [Dec. 5, 1991], unless that provision of law—

"(1) specifically refers to that section and this subsection; and

"(2) identifies the flag and general officers affected by that provision.

"(b) SAVINGS PROVISION.—(1) A medical officer of the Armed Forces who is a flag or general officer and has received any payment of a bonus under section 301d of title 37, United States Code, before the date of the enactment of this Act [Dec. 5, 1991] may not be required to reimburse the United States for such payment by reason of the enactment of subsection (a).

"(2) A written agreement referred to in section 301d of title 37, United States Code, that was entered into on or after April 10, 1991, and before the date of the enactment of this Act [Dec. 5, 1991] by a medical officer of the Armed Forces referred to in paragraph (1) in exchange for a payment (or a promise of payment) of a bonus under that section shall be terminated as of the later of—

"(A) the end of the month following the month in which this Act is enacted; or

"(B) the end of the period covered by the bonus payment or payments received by that officer as described in that paragraph."

Pub. L. 102-172, title VIII, §8084, Nov. 26, 1991, 105 Stat. 1192, provided that: "Restrictions provided under subsection (b)(2) of section 301d of title 37, United States Code, as authorized by the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510), and hereafter, shall not apply in the case of flag or general officers serving as full-time practicing physicians."

TERMINATION OF EXISTING RETENTION BONUS  
AGREEMENT

Section 611(b) of Pub. L. 101-510 provided that:

"(1) Subject to the approval of the Secretary of the military department concerned, a medical officer who is eligible to enter into a retention bonus agreement under section 301d of title 37, United States Code (as added by subsection (a)) may terminate any existing retention bonus agreement entered into by that officer under [section] 612 of the National Defense Authorization Act, Fiscal Year 1989 [Pub. L. 100-456] (37 U.S.C. 302 note), in order to enter into an agreement under section 301d of such title containing an active-duty service obligation that is not less than the active-duty service obligation remaining under the existing agreement on the date of its termination.

"(2) Subsection (e) of section 612 of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note), shall not apply to the termination, pursuant to paragraph (1), of a retention bonus agreement under that section."

## 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 \$14,000 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.)

## 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.

**§ 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. 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.

(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 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.

(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.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
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, § 6 (less applicability to veterinarians), 67 Stat. 89; June 30, 1955, ch. 250, § 203, 69 Stat. 225; Apr. 30, 1956, ch. 223, § 5, 70 Stat. 122; Mar. 23, 1959, Pub. L. 86-4, § 5, 73 Stat. 13.
302(b) .....	37:234(b) (introductory clause and last proviso, less applicability to veterinarians).	
302(c) .....	37:234(b) (less introductory clause, less provisos, and less applicability to veterinarians). 37:234(b) (1st and 2d provisos, less applicability to veterinarians).	

In subsection (a), clause (1) is substituted for section 234(a)(1), (2), and (3) of existing title 37. The words "of the Regular Army or the Regular Navy" and "of the Regular Air Force" are inserted in clauses (1)(A) and

(B), respectively, since, in contradistinction to section 234(a)(4) of existing title 37, their source was intended to apply only to regular officers. Clauses (2) (A) and (B) are substituted for the enumeration of categories in section 234(a)(4) of existing title 37 to reflect current usage and designation of those categories. Clause (3) is substituted for section 234(a)(5) and (6) of existing title 37.

In subsection (c), the words “disability retirement pay” are omitted as covered by the words “retired pay”. Section 234(b) (2d proviso) of existing title 37 is omitted as obsolete.

#### AMENDMENTS

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. See section 303a(b) of this title.

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.

#### 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; title 42 section 210.

### § 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, an officer described in paragraph (2) may be paid retention special pay of not more than \$6,000 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.)

#### AMENDMENTS

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, now covered in section 303a(b) of this title, 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.”

IMPLEMENTATION OF SUBSECTION (b)

Section 617(b) of Pub. L. 101-510 provided that: “The Secretary of Defense may not implement subsection (b) of section 302a 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.”

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. See section 303a(b) of this title.

#### 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, 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.)

## 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

1997—Subsec. (d)(1). Pub. L. 105-85 made technical correction to directory language of Pub. L. 104-201, §614(b)(2)(B). See 1996 Amendment note below.

1996—Subsec. (d). Pub. L. 104-201, §614(b)(1), substituted “Secretary concerned” for “Secretary of Defense” in introductory provisions.

Subsec. (d)(1). Pub. L. 104-201, §614(b)(2)(B), as amended by Pub. L. 105-85, inserted before semicolon at end “, or an officer in the Regular or Reserve Corps of the Public Health Service”.

Pub. L. 104-201, §614(b)(2)(A), struck out “or” after “Nurse Corps of the Army or Navy.”.

Pub. L. 104-106 struck out “or” after “Air Force,” and inserted “, an officer of the Nurse Corps of the Army or Navy, or an officer of the Air Force designated as a nurse” before semicolon at end.

1992—Subsec. (d)(1). Pub. L. 102-484 substituted “Navy,” for “Navy or” and inserted before semicolon at end “, or an officer in the Army Medical Specialist Corps”.

1991—Pub. L. 102-25 amended section catchline generally.

1990—Subsec. (d). Pub. L. 101-510 added subsec. (d).

1989—Pub. L. 101-189, §704(b)(1), struck out “in the Public Health Service Corps” after “psychologists” in section catchline.

Subsecs. (a), (b). Pub. L. 101-189, §704(c), inserted headings.

Subsec. (c). Pub. L. 101-189, §704(a), added subsec. (c).

## EFFECTIVE DATE OF 1997 AMENDMENT

Section 1073(c) of Pub. L. 105-85 provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104-201, as enacted.

## EFFECTIVE DATE

Section 2(c) of Pub. L. 100-140 provided that: “The amendments made by this section [enacting this section and amending section 303a of this title] shall take effect on October 1, 1987 or on the date of the enactment of this Act [Oct. 26, 1987], whichever is later, and shall apply with respect to pay periods beginning on or after that effective date.”

## 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, 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, 1999, 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 \$5,000.

(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.)

## AMENDMENTS

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”.

## 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 section 303a 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, 1999, 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 \$15,000 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 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.)

## AMENDMENTS

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”.

## 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)

Section 614(c) of Pub. L. 101-510 provided that: “The Secretary of Defense may not implement subsection (b)(2) of section 302e 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 departments for the authority provided in such subsection; and

“(2) describing the manner in which that authority will be implemented.”

## 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 OFFICER.—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.

(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.)

## AMENDMENTS

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 operation of subsection (a), the officer shall not be entitled to special pay under subsection (h) of that section.

“(e) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on August 1, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.”

#### 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, 1999.

(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.)

#### 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

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 the date of the enactment of this section, and ending on September 30, 2002, 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.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (a)(1) and (d)(4), is the date of enactment of Pub. L. 104-201, which was approved Sept. 23, 1996.

SECTION REFERRED TO IN OTHER SECTIONS

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

§ 303. Special pay: veterinarians

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 designated as a veterinary officer; 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 is designated as a veterinary officer of the Army or the Air Force, as the case may be; 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.

(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.)

HISTORICAL AND REVISION NOTES

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

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, now covered in section 303a(b) of this title, 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 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 302h, and 303 of this title.

(b) Special pay authorized under sections 301d, 302 through 302h, 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 re-adjustment pay.

(c) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 301d, 302 through 302h, 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.)

#### AMENDMENTS

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, 302b of this title.

### § 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 \$200 a month, in the case of an officer, and at a rate of not more than \$300 a month, in the case of an enlisted member.

(c) 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.

(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  $\frac{1}{30}$  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.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
304(a) .....	37:236(a), (b).	Oct. 12, 1949, ch. 681, §205, 63 Stat. 810; Mar. 31, 1955, ch. 20, §2(8)-(10), 69 Stat. 21; Aug. 17, 1961, Pub. L. 87-145, §1, 75 Stat. 382.
304(b) .....	37:236(c).	

In subsection (a), the last sentence is substituted for section 236(b) of existing title 37. The word “competent” is omitted as surplusage.

AMENDMENTS

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

In subsection (a), the words “Except as provided by subsection (b) of this section” are inserted for clarity. The words “is also . . . entitled” are substituted for the words “shall, in addition thereto . . . be entitled”. The words “any place outside the United States, or in Alaska or Hawaii” are substituted for the words “beyond the continental limits of the United States or in Alaska”, since, under the source statute, Hawaii was beyond the continental limits of the United States, and the United States, as defined in section 101(1) of this revised title, would otherwise include Alaska and Hawaii. This interpretation conforms to the opinion of the Comptroller General, B-138956, April 20, 1959 (38 Comp. Gen. 710).

In subsection (b), the words “Appropriation of” are substituted for the words “of the funds appropriated to”. The words “may not be paid” are substituted for the words “no part . . . shall be available for the payment”. The words “member of a uniformed service” are substituted for the words “person in the military service” to conform to subsection (a). The words “Puerto Rico” are inserted for clarity, since the source statute was applicable to that place. The words “Virgin Is-

lands” 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 “subsection (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)).”

REGULATIONS RELATING TO SPECIAL PAY

Regulations relating to special pay for sea duty and duty at certain places, see Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

EXECUTIVE ORDER NO. 10168

Ex. Ord. No. 10168, Oct. 11, 1950, 15 F.R. 6877, as amended by Ex. Ord. No. 10821, May 20, 1959, 24 F.R. 4123; Ex. Ord. No. 10989, Jan. 23, 1962, 27 F.R. 727; Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631, which concerned regulations relating to special pay for sea duty and duty at certain places, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, 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) Under regulations prescribed by the President, 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) The monthly rates for special pay under subsection (a) are as follows:

ENLISTED MEMBERS

Pay grade	Years of sea duty					
	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5
E-4 .....	\$50	\$60	\$120	\$150	\$160	\$160
E-5 .....	50	60	120	150	170	315
E-6 .....	100	100	120	150	170	315
E-7 .....	100	100	120	175	190	350
E-8 .....	100	100	120	175	190	350
E-9 .....	100	100	120	175	190	350
	Over 6	Over 7	Over 8	Over 9	Over 10	Over 11
E-4 .....	\$160	\$160	\$160	\$160	\$160	\$160
E-5 .....	325	350	350	350	350	350
E-6 .....	325	350	350	365	365	365
E-7 .....	350	375	390	400	400	410
E-8 .....	350	375	390	400	400	410
E-9 .....	350	375	390	400	400	410
	Over 12	Over 13	Over 14	Over 16	Over 18	
E-4 .....	\$160	\$160	\$160	\$160	\$160	
E-5 .....	350	350	350	350	350	
E-6 .....	380	395	410	425	450	
E-7 .....	420	450	475	500	500	
E-8 .....	420	450	475	500	520	
E-9 .....	420	450	475	520	520	

WARRANT OFFICERS

Pay grade	Years of sea duty					
	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5
W-1 .....	\$130	\$135	\$140	\$150	\$170	\$175
W-2 .....	150	150	150	150	170	260
W-3 .....	150	150	150	150	170	270
W-4 .....	150	150	150	150	170	290
W-5 .....	150	150	150	150	170	290
	Over 6	Over 7	Over 8	Over 9	Over 10	Over 11
W-1 .....	\$200	\$250	\$270	\$300	\$325	\$325
W-2 .....	265	265	270	310	340	340

WARRANT OFFICERS—Continued

Pay grade	Years of sea duty					
	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5
W-3 .....	280	285	290	310	350	375
W-4 .....	310	310	310	310	350	375
W-5 .....	310	310	310	310	350	375
	Over 12	Over 14	Over 16	Over 18	Over 20	
W-1 .....	\$340	\$360	\$375	\$375	\$375	
W-2 .....	375	400	400	400	400	
W-3 .....	400	425	425	450	450	
W-4 .....	400	450	450	500	500	
W-5 .....	400	450	450	500	500	

COMMISSIONED OFFICERS

Pay grade	Years of sea duty						
	Over 3	Over 4	Over 5	Over 6	Over 7	Over 8	Over 9
O-1 .....	\$150	\$160	\$185	\$190	\$195	\$205	\$215
O-2 .....	150	160	185	190	195	205	215
O-3 .....	150	160	185	190	195	205	215
O-4 .....	185	190	200	205	215	220	220
O-5 .....	225	225	225	225	230	245	250
O-6 .....	225	230	230	240	255	265	280
	Over 10	Over 11	Over 12	Over 14	Over 16	Over 18	Over 20
O-1 .....	\$225	\$225	\$240	\$250	\$260	\$270	\$280
O-2 .....	225	225	240	250	260	270	280
O-3 .....	225	225	240	260	270	280	290
O-4 .....	225	225	240	270	280	290	300
O-5 .....	260	265	265	285	300	315	340
O-6 .....	290	300	310	325	340	355	380

(c) 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.

(d)(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.)

AMENDMENTS

1997—Subsec. (d)(1)(A). Pub. L. 105-85, §620(1), struck out "ship-based staff, or ship-based aviation unit" after "assigned to a ship".

Subsec. (d)(1)(B). Pub. L. 105-85, §620(2), struck out "or ship-based staff" after "assigned to a ship".

Subsec. (d)(2) to (4). Pub. L. 105-85, §620(3), (4), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1996—Subsec. (d)(1)(A). Pub. L. 104-106 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while under way or while serving as a member of the off-crew of a two-crewed submarine; or".

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

Subsec. (b). Pub. L. 102-190, in table pertaining to warrant officers, added provisions relating to pay grade W-5 in three places.

1989—Subsec. (b). Pub. L. 101-189 inserted "COMMISSIONED" before "OFFICERS" in heading of table relating to officers in pay grades O-1 through O-6.

1988—Subsec. (d)(2). Pub. L. 100-456 substituted "after December 31, 1988," for "on or after the effective date specified in section 621(e)(1) of the National Defense Authorization Act for Fiscal Year 1988".

1987—Subsec. (b). Pub. L. 100-224 substituted "Over 14" for "Over 13" in table relating to warrant officers.

Pub. L. 100-180, §621(a), in amending subsec. (b) generally, struck out "of this section" after "subsection (a)" in introductory provisions and amended table pertaining to enlisted members so as to reflect downward adjustment in monthly special pay rates for persons in pay grade E-4 having over 2 years of sea duty and for

persons in pay grades E-5 through E-9 having less than 5 years of sea duty, and amended table so as to reflect upward adjustment for persons in pay grades E-5 through E-9 having over 5 years of sea duty, amended table pertaining to warrant officers so as to reflect upward adjustment for persons in pay grades W-1 through W-3 having over 9 years of sea duty and for persons in pay grade W-4 having over 10 years of sea duty, and in table pertaining to officers for pay grade O-4 substituted "220" for "215" in the column for "Over 8".

Subsec. (c). Pub. L. 100-180, §621(b), inserted "(other than an enlisted member in a pay grade above E-4 with more than five years of sea duty)" after first reference to "sea duty".

Subsec. (d). Pub. L. 100-180, §621(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "In this section, the term 'sea duty' means duty performed by a member—

"(1) while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while underway or while serving as a member of the off crew of a two-crewed submarine; or

"(2) while permanently or temporarily assigned to a ship or ship-based staff and while serving on a ship the primary mission of which is normally accomplished while in port, but only during a period that the ship is away from its homeport for 30 consecutive days or more.

A ship is considered away from its homeport for purposes of clause (2) of the first sentence when it is at sea or in a port that is more than 50 miles from its homeport."

Pub. L. 100-26 substituted "In this section," for "For the purposes of this section,".

1985—Subsec. (b). Pub. L. 99-145 amended table for warrant officers for pay grade W-3 by substituting "330" for "310" in column for "Over 12", and for pay grade W-4, substituted "320" for "310" in column for "Over 10", substituted "330" for "310" in column for "Over 11", and "350" for "310" in column for "Over 12", inserted columns for "Over 14", "Over 16", "Over 18", and "Over 20", and in table for commissioned officers inserted columns for "Over 14", "Over 16", "Over 18", and "Over 20", and struck out the subscript qualifier for pay grades O-1 and O-2, which read: "Commissioned officers with at least four years of active service as enlisted members or as noncommissioned warrant officers".

1984—Subsec. (b). Pub. L. 98-525 amended table relating to rates of pay for enlisted members by substituting "265" for "255" and "320" for "310" in column for "Over 10", "265" for "255" and "330" for "310" in column for "Over 11", "280" for "255", "320" for "310", and "350" for "310" in column for "Over 12", and inserted columns for "Over 13", "Over 14", "Over 16", and "Over 18".

1982—Subsec. (d). Pub. L. 97-295 substituted "clause (2)" for "clause (B)" after "for purposes of".

1981—Subsec. (d)(1). Pub. L. 97-60 inserted provisions relating to service as a member of the off crew of a two-crewed submarine.

1980—Subsec. (a). Pub. L. 96-579 substituted provision declaring a member of a uniformed service entitled to basic pay as eligible for special pay for prior provision for eligibility to such pay of an enlisted member of a uniformed service entitled to basic pay, in pay grade E-4 or above, with three years of sea duty.

Subsec. (b). Pub. L. 96-579 substituted special monthly pay table for enlisted members, warrant officers, and commissioned officers for prior special monthly rate for enlisted members for sea duty above prescribed number of years: \$29, 3 yrs.; \$40, 5 yrs.; \$52, 7 yrs.; \$63, 9 yrs.; \$75, 10 yrs.; \$86, 11 yrs.; and \$115, 12 yrs.

Pub. L. 96-343 substituted provision authorizing monthly rates of special pay of \$29 for over 3 years, \$40 for over 5 years, \$52 for over 7 years, \$63 for over 10 years, \$86 for over 11 years, and \$115 for over 12 years

for provision authorizing monthly rates of special pay during fiscal year 1979 or 1980 of \$25 for over 3 years, \$35 for over 5 years, and \$55 for over 12 years and for fiscal year 1981 rates of \$25 for over 3 years, \$35 for over 5 years, \$45 for over 7 years, and \$55 for over 12 years.

Subsecs. (c), (d). Pub. L. 96-579 added subsecs. (c) and (d).

#### EFFECTIVE DATE OF 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.

§ 306. Special pay: officers holding positions of unusual responsibility and of critical nature

(a) 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 who is entitled to the basic pay of pay grade O-6 or below and who is performing the duties of such a position, at the following monthly rates:

Table with 2 columns: Pay Grade, Monthly Rate. Rows include O-6 (\$150), O-5 (100), O-4 and below (50).

(b) 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.

(c) Not more than 5 percent of the number of officers on active duty (other than for training) 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.

(d) 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 Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(e) 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.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Rows list sections 306(a) through 306(f) and their corresponding sources.

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

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 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 \$275. 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.

(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 Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(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.)

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

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 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."

#### CROSS REFERENCES

Authorized daily average of members in pay grades E-8 and E-9, see section 517 of Title 10, Armed Forces.

#### SECTION REFERRED TO IN OTHER SECTIONS

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

### § 308. Special pay: reenlistment bonus

(a)(1) A member of a uniformed service who—  
(A) has completed at least twenty-one 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 Transportation 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) ten 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) \$45,000.

(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.

(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 in—

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

stead 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 Transportation 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 Transportation 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 Transportation 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, 1999.

(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.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
308(a) .....	37-239(a), 37-239(e).	Oct. 12, 1949, ch. 681, §208; added July 16, 1954, ch. 535, §2, 66 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

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 section” after “paragraph (1)(B)”.

1987—Subsec. (b)(1). Pub. L. 100-180, §625(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Not less than 75 percent of the amount of a bonus under this section shall be paid in a lump sum at the beginning of the period for which the bonus is paid, with any remaining amount paid in equal annual installments.”

Subsec. (g). Pub. L. 100-180, §626(a), substituted “September 30, 1992” for “September 30, 1987”.

1985—Subsec. (b)(1). Pub. L. 99-145 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Bonus payments authorized under this section may be paid in either a lump sum or in installments.”

1984—Subsec. (a)(1). Pub. L. 98-525, §621(b)(1), substituted “\$30,000” for “\$20,000” in provisions following subpar. (D).

Subsec. (b). Pub. L. 98-525, §621(b)(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Pub. L. 98-525, §621(a), substituted “September 30, 1987” for “September 30, 1984”.

1983—Subsec. (g). Pub. L. 98-14 substituted “September 30, 1984” for “March 31, 1983”.

1982—Subsec. (g). Pub. L. 97-377 substituted “March 31, 1983” for “December 17, 1982”.

Pub. L. 97-276 substituted “December 17, 1982” for “September 30, 1982”. Notwithstanding directory language that amendment be made to section 308(g) of “title 35, United States Code”, amendment was executed to this section as the probable intent of Congress.

1981—Subsec. (e). Pub. L. 97-60 inserted provision that any unserved period of two years or less of an extension of an enlistment for which no bonus has been paid or for which no bonus is otherwise payable under this section may be considered as part of an immediately subsequent term of reenlistment (or as part of an immediately subsequent voluntary extension of an enlistment) and substituted “Secretary concerned” for “Secretary of the Navy” as authority authorized to prescribe regulations.

1980—Subsec. (a)(1). Pub. L. 96-342, §804(a)(1), substituted “fourteen years” for “ten years” in subpar. (A) and, in provisions following subpar. (D), substituted “\$20,000” for “\$15,000” and “sixteen years” for “twelve years”.

Subsec. (e). Pub. L. 96-579 added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 96-579 redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 96-342, §804(a)(2), substituted “September 30, 1982” for “September 30, 1980”.

Subsec. (g). Pub. L. 96-579 redesignated former subsec. (f) as (g).

1978—Subsec. (a). Pub. L. 95-485, §802(a)(1), designated existing provision as par. (1) and existing pars. (1) to (4) thereof as subpars. (A) to (D), in subpar. (B) as so redesignated, substituted “qualified in a military skill designated as critical” for “designated as having a critical military skill”, and added par. (2).

Subsec. (f). Pub. L. 95-485, §802(b), substituted “September 30, 1980” for “September 30, 1978”.

1977—Subsec. (d). Pub. L. 95-57, §1(a), substituted “or a member who is not technically qualified in the skill for which a bonus was paid to him under this section (other than a member who is not qualified because of injury, illness, or other impairment not the result of his own misconduct) shall refund that percentage of the bonus, that the unexpired part of his additional obligated service is of the total reenlistment or extension period for which the bonus was paid” for “shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid”.

Subsec. (f). Pub. L. 95-57, §1(b), substituted “September 30, 1978” for “June 30, 1977”.

1974—Pub. L. 93-277 amended section generally.

1968—Subsecs. (e), (g). Pub. L. 90-623 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

1965—Subsec. (g). Pub. L. 89-132 added subsec. (g).

#### EFFECTIVE DATE OF 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. Special pay: enlistment bonus

(a) Notwithstanding section 514(a) of title 10 or any other law, under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who enlists in an armed force for a period of at least four years in a skill designated as critical, or who extends his initial period of active duty in that armed force to a total of at least four years in a skill designated as critical, may be paid a bonus in an amount prescribed by the appropriate Secretary, but not more than \$12,000. The bonus shall be paid in periodic installments, as determined by the appropriate Secretary, except that the first installment may not exceed \$7,000 and the remainder shall be paid in equal periodic installments which may not be paid less frequently than once every 3 months.

(b) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person 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 person 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 enlistment is of the total enlistment period for which the bonus was paid.

(c) No bonus shall be paid under this section with respect to any enlistment or extension of an initial period of active duty in the armed forces made after December 31, 1999.

(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.)

## AMENDMENTS

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”.

1989—Subsec. (a). Pub. L. 101-189 substituted “\$12,000” for “\$8,000” and “\$7,000” for “\$5,000”.

1987—Subsec. (c). Pub. L. 100-180 substituted “September 30, 1992” for “September 30, 1987”.

1984—Subsec. (c). Pub. L. 98-525 substituted “September 30, 1987” for “September 30, 1984”.

1983—Subsec. (c). Pub. L. 98-14 substituted “September 30, 1984” for “March 31, 1983”.

1982—Subsec. (c). 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 308a(c) of “title 35, United States Code”, amendment was executed to this section as the probable intent of Congress.

1981—Subsec. (a). Pub. L. 97-60 substituted “\$8,000” for “\$5,000” as allowable maximum bonus and inserted provisions that first installment of bonus may not exceed \$5,000 and that remainder be paid in equal periodic installments which may not be paid less frequently than once every 3 months.

1980—Subsec. (a). Pub. L. 96-342, § 804(b)(1), substituted “\$5,000” for “\$3,000”.

Subsec. (c). Pub. L. 96-342, § 804(b)(2), substituted “September 30, 1982” for “September 30, 1980”.

1978—Subsec. (c). Pub. L. 95-485 substituted “September 30, 1980” for “September 30, 1978”.

1977—Subsec. (b). Pub. L. 95-57, § 2(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 person 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 enlistment is of the total enlistment 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. (c). Pub. L. 95-57, § 2(b), substituted “September 30, 1978” for “June 30, 1977”.

1974—Subsec. (a). Pub. L. 93-277 substituted provisions authorizing payment of enlistment bonus according to regulations to be issued, to persons enlisting in an armed force for at least four years in a skill designated as critical, and to those extending their initial period of active duty in the armed force to a total of at least four years in a skill designated as critical, for provisions authorizing payment of enlistment bonus to persons enlisting in the career field of Infantry, Field Artillery, or Tank and Amphibian Tractor in the Marine Corps for at least three years and to those extending their initial period of active duty in such a career field to a total of at least three years.

Subsec. (b). Pub. L. 93-277 substituted “Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy,” for “Secretary of Defense”.

Subsec. (c). Pub. L. 93-277 substituted “June 30, 1977” for “June 30, 1974”.

1973—Subsec. (a). Pub. L. 93-64, § 204(1), substituted in first sentence “the career field of Infantry, Armor, or Field Artillery Cannon in the Army, or the career field of Infantry, Field Artillery, or Tank and Amphibian Tractor in the Marine Corps”, for “any combat element of an armed force” and “such a career field” for “a combat element of an armed force”.

Subsec. (c). Pub. L. 93-64, § 204(2), substituted “June 30, 1974” for “June 30, 1973”.

## 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 308 of this title occurring on or after that date, see section 613(h)(1) of Pub. L. 103-160, set out as a note under section 308 of this title.

## EFFECTIVE DATE OF 1989 AMENDMENT

Section 612(c) of Pub. L. 101-189 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to an enlistment or extension of an initial period of active duty (in a skill designated as critical) entered into on or after October 1, 1989.”

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-60 applicable to enlistments and reenlistments after Oct. 14, 1981, see section 117(d) of Pub. L. 97-60, set out as a note under section 308 of this title.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-342 applicable to enlistments, reenlistments, and extensions of enlistments made after Sept 30, 1980, see section 804(c) of Pub. L. 96-342, set out as a note under section 308 of this title.

## EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-57 effective July 1, 1977, see section 3 of Pub. L. 95-57, set out as a note under section 308 of this title.

## EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-277 effective June 1, 1974, see section 4 of Pub. L. 93-277, set out as a note under section 308 of this title.

## EFFECTIVE DATE OF 1973 AMENDMENT

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

## EFFECTIVE DATE

Section effective on a date to be prescribed by Secretary of Defense, but not earlier than Feb. 1, 1971, see section 209 of Pub. L. 92-129, set out as a note under section 302a 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.

## LIMITATION ON PAYMENTS

Section 612(b) of Pub. L. 101-189 provided that: “The total amount of payments made during fiscal year 1990 under section 308a(a) of title 37, United States Code, by the Secretary of the Army may not exceed \$66,400,000.”

## PAY CONTINUATION

Enactment of this section not to reduce pay to which any member of 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 title 38 section 3015.

**§ 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 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 BONUSSES.**—(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.

(d) **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 re-

spect 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.

(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 Transportation for the Coast Guard when it is not operating as a service in the Navy.

(f) **TERMINATION OF AUTHORITY.**—No bonus may be paid under this section to any enlisted member who, after December 31, 1999, 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.)

## AMENDMENTS

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 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 for a term of enlistment of not less than six years, 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 \$5,000 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 Transportation 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 unexpired 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, 1999, 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.)

## AMENDMENTS

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 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, 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 compensation, 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, 1999.

(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.)

## 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

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 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, 1999.

(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 Transportation 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.)

#### AMENDMENTS

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 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. Special pay: bonus for enlistment in the Army

(a) Under regulations prescribed by the Secretary of the Army, a person—

(1) who is a high school graduate (or has received a high school education equivalency certificate);

(2) whose score on the Armed Forces Qualification Test is at or above the fiftieth percentile; and

(3) who enlists in the Army for a period of at least 3 years in a skill designated as critical,

may be paid a bonus in an amount prescribed by the Secretary of the Army not to exceed \$6,000. The bonus may be paid in a lump sum or in equal periodic installments, as determined by the Secretary of the Army.

(b)(1) Under regulations prescribed by the Secretary of the Army, a person 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 person who is not technically qualified in the skill for which a bonus was paid to him under this section (other than a person who is not qualified because of injury, illness, or other impairment not the result of his own misconduct), shall refund to the United States that percentage of the bonus that the unexpired part of his 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 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.

(c) No bonus may be paid under this section with respect to an enlistment in the Army after December 31, 1999.

(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.)

#### AMENDMENTS

1998—Subsec. (a). Pub. L. 105-261, §620, substituted “\$6,000” for “\$4,000” in concluding provisions.

Subsec. (c). Pub. L. 105-261, §613(c), 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, 1992”.

1991—Subsec. (b)(2), (3). Pub. L. 102-25 struck out “of this subsection” after “paragraph (1)”.

1987—Subsec. (c). Pub. L. 100-180 substituted “September 30, 1992” for “September 30, 1987”.

1984—Subsec. (c). Pub. L. 98-525 substituted “September 30, 1987” for “September 30, 1984”.

1983—Subsec. (c). Pub. L. 98-14 substituted “September 30, 1984” for “September 30, 1983”.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 613(h)(3) of Pub. L. 103-160 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 an enlistment in the Army described in section 308f of title 37, United States Code, occurring on or after that date.”

#### EFFECTIVE DATE

Section applicable to enlistments and reenlistments after Oct. 14, 1981, see section 117(d) of Pub. L. 97-60, set out as an Effective Date of 1981 Amendment note under section 308 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 3015.

### § 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 Transportation 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.)

#### AMENDMENTS

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 en-

actment 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 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)(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.

(b)(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) A person who receives a bonus payment under this section and who fails during the period for which the bonus was paid to serve satis-

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

(e) 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)(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 Transportation 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) 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, 1999.

(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.)

AMENDMENTS

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 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.

#### 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—

(A) has completed his military service obligation but has less than 14 years of total military service;

(B) has received an honorable discharge at the conclusion of military service;

(C) is not being released from active service for the purpose of enlistment in a reserve component;

(D) is projected to occupy a position as a member of the Selected Reserve in a specialty in which—

(i) the person successfully served while a member on active duty; and

(ii) the person attained a level of qualification while a member on active duty commensurate with the grade and years of service of the member; and

(E) 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) \$5,000, in the case of a person who enlists for a period of six years;

(B) \$2,500, in the case of a person who, having never received a bonus under this section, enlists for a period of three years; and

(C) \$2,000, in the case of a person who, having received a bonus under this section for a previous three-year enlistment, reenlists or extends the enlistment for an additional period of three years.

(2) Any bonus payable under this section shall be disbursed in one initial payment of an amount not to exceed one-half of the total amount of the bonus and subsequent periodic partial payments of the balance of the bonus. The Secretary concerned shall prescribe the amount of each partial payment and the schedule for making the partial payments.

(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 Transportation 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, 1999.

(Added Pub. L. 99-145, title VI, § 644(a)(1), Nov. 8, 1985, 99 Stat. 652; amended Pub. L. 100-26, § 8(d)(4), Apr. 21, 1987, 101 Stat. 285; Pub. L. 100-180, div. A, title VI, § 626(b), Dec. 4, 1987, 101 Stat. 1104; Pub. L. 101-189, div. A, title VI, § 613, Nov. 29, 1989, 103 Stat. 1446; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title VI, § 612(d), title XI, § 1136, Oct. 23, 1992, 106 Stat. 2421, 2541; Pub. L. 103-160, div. A, title VI, § 612(e), Nov. 30, 1993, 107 Stat. 1680; Pub. L. 103-337, div. A, title VI, § 611(e), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104-106, div. A, title VI, § 611(e), Feb. 10, 1996, 110 Stat. 359; Pub. L. 104-201, div. A, title VI, § 611(g), Sept. 23, 1996, 110 Stat. 2543; Pub. L. 105-85, div. A, title VI, § 611(g), 622, Nov. 18, 1997, 111 Stat. 1785, 1791; Pub. L. 105-261, div. A, title VI, § 611(g), Oct. 17, 1998, 112 Stat. 2038.)

#### AMENDMENTS

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 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 oc-

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

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

### **[§ 309. Repealed. Pub. L. 96-107, title IV, § 404(a)(1), Nov. 9, 1979, 93 Stat. 808]**

Section, 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.

#### EFFECTIVE DATE OF REPEAL

Section 404(b) of Pub. L. 96-107 provided that: "The amendments made by this section [repealing this section] shall apply only with respect to administrative functions performed after September 30, 1980."

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

(a) 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.

(b)(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.

(c) Any determination of fact that is made in administering this section is conclusive. Such a determination may not be reviewed by any other officer or agency of the United States unless there has been fraud or gross negligence. However, the determination may be changed on the basis of new evidence or for other good cause.

(Added Pub. L. 88-132, §9(a)(1), Oct. 2, 1963, 77 Stat. 216; amended Pub. L. 89-132, §4, Aug. 21, 1965, 79 Stat. 547; Pub. L. 98-94, title IX, §905(a), (b)(1), Sept. 24, 1983, 97 Stat. 636, 637; Pub. L. 99-145, title VI, §638(a), Nov. 8, 1985, 99 Stat. 649; Pub. L. 101-510, div. A, title XIII, §1322(c)(6), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102-190, div. A, title VI, §§611(a), 613, Dec. 5, 1991, 105 Stat. 1376, 1377; Pub. L. 105-261, div. A, title VI, §621, Oct. 17, 1998, 112 Stat. 2042.)

#### AMENDMENTS

1998—Subsec. (b). Pub. L. 105-261 designated existing provisions as par. (1) and added par. (2).

1991—Subsec. (a). Pub. L. 102-190 substituted "Under" for "Except in time of war declared by Congress, and under" and "rate of \$150" for "lowest rate for hazardous duty incentive pay specified in section 301(c)(1) of this title".

1990—Subsec. (d). Pub. L. 101-510 struck out subsec. (d) which read as follows: "The Secretary of Defense shall report to Congress by March 1 of each year on the administration of this section during the preceding calendar year."

1985—Subsec. (a). Pub. L. 99-145 substituted "at the lowest rate for hazardous duty incentive pay specified in section 301(c)(1) of this title" for "at the rate of \$65 a month" in provisions preceding cl. (1).

1983—Pub. L. 98-94, §905(b)(1), inserted "or imminent danger" in section catchline.

Subsec. (a)(4). Pub. L. 98-94, §905(a), added cl. (4).

1965—Subsec. (a). Pub. L. 89-132 increased rate of special pay from \$55 to \$65 a month.

#### EFFECTIVE DATE OF 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.

#### 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 begin-

ning on or after the date 180 days after the end of the Persian Gulf conflict.”

#### IMMINENT DANGER PAY

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; title 20 section 1087ee; title 24 section 412; title 26 section 112; 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 \$15,000 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, 1999, 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.)

#### AMENDMENTS

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 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 sec-

tion 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 \$10,000 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, 1999, 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.)

## AMENDMENTS

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 1997 AMENDMENT

Amendment by section 624(b) of Pub. L. 105-85 effective Oct. 1, 1997, and applicable with respect to agreements accepted under subsec. (a) of this section on or after Oct. 1, 1997, see section 624(d) of Pub. L. 105-85, set out as a note under section 312 of this title.

## EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-145 effective Oct. 1, 1985, see section 632(d) of Pub. L. 99-145, set out as a note under section 312 of this title.

## EFFECTIVE DATE OF 1980 AMENDMENT

Section 2(d)(2) of Pub. L. 96-579 provided: “The amendments made by subsection (b)(1) [amending this section] shall apply only with respect to agreements executed under section 312b(a) of title 37, United States Code, executed on or after the first day of the first month following the month in which this section is enacted [December 1980].”

## EFFECTIVE DATE

Section effective Aug. 1, 1976, see section 5 of Pub. L. 94-356, set out as an Effective Date of 1976 Amendment note under section 312 of this title.

### § 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 \$12,000 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 \$5,500 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

October 1, 1998, and the 15-month period beginning on that date and ending on December 31, 1999.

(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.)

#### AMENDMENTS

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 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 enlisted members extending duty at designated locations overseas**

(a) COVERED MEMBERS.—This section applies with respect to an enlisted 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 48 contiguous States and the District of Columbia 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 an enlisted 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 de-

termines 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.)

#### 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

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.

(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 ap-

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

plies 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 \$100.

(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 require-

ments 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 Transportation 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.)

#### AMENDMENTS

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 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 sub-

section (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."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1762.

### CHAPTER 7—ALLOWANCES

Sec.  
401. Definitions.  
402. Basic allowance for subsistence.  
403. Basic allowance for housing.  
[403a. Repealed.]  
403b. Cost-of-living allowance in the continental United States.  
404. Travel and transportation allowances: general.  
404a. Travel and transportation allowances: temporary lodging expenses.  
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.  
409. Travel and transportation allowances: house trailers and mobile homes.  
410. Travel and transportation allowances: miscellaneous categories.  
411. Travel and transportation allowances: administrative provisions.  
411a. Travel and transportation allowances: travel performed in connection with convalescent leave.  
411b. Travel and transportation allowances: travel performed in connection with leave between consecutive overseas tours.  
411c. Travel and transportation allowances: travel performed in connection with rest and recuperative leave from certain stations in foreign countries.

411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents.  
411e. Travel and transportation allowances: transportation incident to certain emergencies for members performing temporary duty.  
411f. Travel and transportation allowances: transportation for survivors of deceased member to attend the member's burial ceremonies.  
411g. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty.  
411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members.  
412. Appropriations for travel: may not be used for attendance at certain meetings.  
413. Chairman and Vice Chairman of the Joint Chiefs of Staff.  
414. Personal money allowance.  
415. Uniform allowance: officers; initial allowance.  
416. Uniform allowance: officers; additional allowances.  
417. Uniform allowance: officers; general provisions.  
418. Clothing allowance: enlisted members.  
419. Civilian clothing allowance.  
420. Allowances while participating in international sports.  
421. Allowances: no increase while dependent is entitled to basic pay.  
422. Cadets and midshipmen.  
423. Validity of allowance payments based on purported marriages.  
424. Band leaders.  
425. United States Navy Band; United States Marine Band: allowances while on concert tour.<sup>1</sup>  
[426. Repealed.]  
427. Family separation allowance.  
428. Allowance for recruiting expenses.  
429. Travel and transportation allowances: minor dependent schooling.  
430. Travel and transportation: dependent children of members stationed overseas.  
431. Benefits for certain members assigned to the Defense Intelligence Agency.  
432. Travel and transportation: members escorting certain dependents.  
433. Allowance for muster duty.  
434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams.

#### AMENDMENTS

1998—Pub. L. 105-261, div. A, title VI, § 633(b)(2), Oct. 17, 1998, 112 Stat. 2044, substituted "rest and recuperative leave from certain stations" for "leave from certain stations" in item 411c.

1997—Pub. L. 105-85, div. A, title VI, § 603(c)(4), Nov. 18, 1997, 111 Stat. 1782, substituted "housing" for "quarters" in item 403 and struck out item 403a "Variable housing allowance".

1994—Pub. L. 103-337, div. A, title VI, § 602(a)(2), Oct. 5, 1994, 108 Stat. 2781, added item 403b.

1992—Pub. L. 102-484, div. A, title VI, § 623(a)(2), Oct. 23, 1992, 106 Stat. 2423, added item 434.

1990—Pub. L. 101-510, div. A, title V, § 504(a)(1), title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1559, 1717, revised chapter heading so as to appear in all capital letters and renumbered Pub. L. 95-561, § 1407(c)(1)(B). See 1978 Amendment note below.

1989—Pub. L. 101-189, div. A, title V, § 502(b)(2), title VI, § 624(a)(2), Nov. 29, 1989, 103 Stat. 1437, 1448, added items 406c and 433.

1987—Pub. L. 100-180, div. A, title VI, §§ 611(a)(2), 614(a)(2), (d)(3), 615(a)(2), title XIII, § 1314(c)(2), Dec. 4,

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

1987, 101 Stat. 1093-1096, 1176, substituted "leave between consecutive overseas tours" for "certain leave" in item 411b, added items 411g and 411h, inserted "and Vice Chairman" in item 413, added item 419, and redesignated former items 419 and 420 as 420 and 421, respectively.

Pub. L. 100-26, §8(b)(1), Apr. 21, 1987, 101 Stat. 285, redesignated item 431 "Travel and transportation: members escorting certain dependents" as item 432.

1986—Pub. L. 99-661, div. A, title VI, §615(a)(2), Nov. 14, 1986, 100 Stat. 3880, added item 431 "Travel and transportation: members escorting certain dependents".

1985—Pub. L. 99-145, title VI, §§616(c)(2), 620(a)(2), title XIII, §§1302(b)(2), 1303(b)(7), Nov. 8, 1985, 99 Stat. 641, 643, 738, 740, substituted "allowances;" for "allowances;" in item 404 and "departure" for "evacuation" in item 405a, struck out "away from home port" after "inactivating" in item 406b, added item 411f, substituted "allowances" for "allowance" in item 425, and added item 431 "Benefits for certain members assigned to the Defense Intelligence Agency".

1984—Pub. L. 98-525, title VI, §§602(d)(2), 612(a)(2), Oct. 19, 1984, 98 Stat. 2536, 2539, struck out "; variable housing allowance" after "Basic allowance for quarters" in item 403, and added item 403a, and substituted "personal emergencies for certain members and dependents" for "certain emergencies for members performing temporary duty" in item 411d.

1983—Pub. L. 98-94, title IX, §§910(a)(2), 932(e)(2), Sept. 24, 1983, 97 Stat. 639, 650, struck out item 421 "Contract surgeons" and added item 430.

1981—Pub. L. 97-60, title I, §§122(a)(2), 126(b), Oct. 14, 1981, 95 Stat. 1003, 1005, added items 404a, 411c, 411d, and 411e.

Pub. L. 97-22, §11(b)(3)(B), July 10, 1981, 95 Stat. 138, substituted "uniformed services" for "Uniformed Services" in item 406b.

1980—Pub. L. 96-343, §4(a)(3), Sept. 8, 1980, 94 Stat. 1125, substituted "for quarters; variable housing allowance" for "for quarters" in item 403.

Pub. L. 96-342, title VIII, §808(a)(2), Sept. 8, 1980, 94 Stat. 1097, substituted "house trailers and mobile homes" for "trailers" in item 409.

1978—Pub. L. 95-561, title XIV, §1407(d)(1)(B), formerly §1407(c)(1)(B), Nov. 1, 1978, 92 Stat. 2367, as renumbered by Pub. L. 101-510, div. A, title V, §504(a)(1), Nov. 5, 1990, 104 Stat. 1559, added item 429.

1973—Pub. L. 93-213, §1(2), Dec. 28, 1973, 87 Stat. 910, added item 411b.

Pub. L. 93-170, §1(2), Nov. 29, 1973, 87 Stat. 689, substituted "overhauling or inactivating" for "overhauling" in item 406b.

1971—Pub. L. 92-129, title II, §205(b), Sept. 28, 1971, 85 Stat. 359, added item 428.

1970—Pub. L. 91-210, §1(2), Mar. 13, 1970, 84 Stat. 53, added item 406b.

1968—Pub. L. 90-377, §9, July 5, 1968, 82 Stat. 288, struck out item 426 "Prisoners in naval confinement facilities".

1967—Pub. L. 90-207, §9(2), Dec. 16, 1967, 81 Stat. 655, inserted item 411a.

1965—Pub. L. 89-26, §1(2), May 22, 1965, 79 Stat. 117, inserted item 405a.

1964—Pub. L. 88-647, title II, §202(6), Oct. 13, 1964, 78 Stat. 1071, substituted "Cadets and midshipmen" for "Cadets, midshipmen, and naval officer candidates" in item 422.

1963—Pub. L. 88-238, §1(2), Dec. 23, 1963, 77 Stat. 476, inserted item 406a.

Pub. L. 88-132, §11(2), Oct. 2, 1963, 77 Stat. 217, added item 427.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 907 of this title; title 10 section 1051; title 42 section 659.

### § 401. Definitions

(a) DEPENDENT DEFINED.—In this chapter, the term "dependent", with respect to a member of

a uniformed service, means the following persons:

(1) The spouse of the member.

(2) An unmarried child of the member who—

(A) is under 21 years of age;

(B) is incapable of self-support because of mental or physical incapacity and is in fact dependent on the member for more than one-half of the child's support; or

(C) is under 23 years of age, is enrolled in a full-time course of study in an institution of higher education approved by the Secretary concerned for purposes of this subparagraph, and is in fact dependent on the member for more than one-half of the child's support.

(3) A parent of the member if—

(A) the parent is in fact dependent on the member for more than one-half of the parent's support;

(B) the parent has been so dependent for a period prescribed by the Secretary concerned or became so dependent due to a change of circumstances arising after the member entered on active duty; and

(C) the dependency of the parent on the member is determined on the basis of an affidavit submitted by the parent and any other evidence required under regulations prescribed by the Secretary concerned.

(4) An unmarried person who—

(A) is placed in the legal custody of the member as a result of an order of a court of competent jurisdiction in the United States (or Puerto Rico or a possession of the United States) for a period of at least 12 consecutive months;

(B) either—

(i) has not attained the age of 21;

(ii) has not attained the age of 23 years and is enrolled in a full time course of study at an institution of higher learning approved by the Secretary concerned; or

(iii) is incapable of self support because of a mental or physical incapacity that occurred while the person was considered a dependent of the member or former member under this paragraph pursuant to clause (i) or (ii);

(C) is dependent on the member for over one-half of the person's support;

(D) resides with the member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the Secretary concerned may by regulation prescribe; and

(E) is not a dependent of a member under any other paragraph.

(b) OTHER DEFINITIONS.—For purposes of subsection (a):

(1) The term "child" includes—

(A) a stepchild of the member (except that such term does not include a stepchild after the divorce of the member from the stepchild's parent by blood);

(B) an adopted child of the member, including a child placed in the home of the

member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member; and

(C) an illegitimate child of the member if the member's parentage of the child is established in accordance with criteria prescribed in regulations by the Secretary concerned.

(2) The term "parent" means—

(A) a natural parent of the member;

(B) a stepparent of the member;

(C) a parent of the member by adoption;

(D) a parent, stepparent, or adopted parent of the spouse of the member; and

(E) any other person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least five years before the member became 21 years of age.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 469; Pub. L. 93-64, title I, §§103, 104, July 9, 1973, 87 Stat. 148; Pub. L. 100-26, §8(e)(7), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102-190, div. A, title VI, §621, Dec. 5, 1991, 105 Stat. 1377; Pub. L. 103-160, div. A, title VI, §631(a), Nov. 30, 1993, 107 Stat. 1683; Pub. L. 103-337, div. A, title VII, §701(b), Oct. 5, 1994, 108 Stat. 2797.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
401 .....	37:231(g) (less last proviso of last sentence).	Oct. 12, 1949, ch. 681, §102(g) (less last proviso of last sentence), 63 Stat. 804; Sept. 8, 1950, ch. 922, §1, 64 Stat. 794; Mar. 23, 1953, ch. 8 (as applicable to §102(g)), 67 Stat. 6; June 30, 1955, ch. 250, §103 (as applicable to §102(g)), 69 Stat. 224; Mar. 23, 1959, Pub. L. 86-4, §3 (as applicable to §102(g)), 73 Stat. 13.

The words "lawful", "at all times and in all places", "except as hereinafter limited in this subsection", and "in addition to those persons otherwise defined as dependents in this subsection" are omitted as surplusage. In clause (1), the word "spouse" is substituted for words "wife" and "husband". Clause (2) is substituted for the 16th through 24th words of the first sentence of section 231(g) of existing title 37 and the third sentence (less last proviso) of section 231(g) of existing title 37. Clause (3) is substituted for the second sentence of section 231(g) of existing title 37 and the last sentence (less provisos) of section 231(g) of existing title 37. The second sentence is substituted for the last proviso of the third sentence of section 231(g) of existing title 37. The last sentence is substituted for the first proviso of the last sentence of section 231(g) of existing title 37.

#### AMENDMENTS

1994—Subsec. (b)(1)(B). Pub. L. 103-337 substituted "placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member" for "placement agency for the purpose of adoption".

1993—Subsec. (a)(4). Pub. L. 103-160 added par. (4).

1991—Pub. L. 102-190 amended text generally. Prior to amendment, text read as follows: "In this chapter, the term 'dependent', with respect to a member of a uniformed service, means—

"(1) his spouse;

"(2) his unmarried child (including any of the following categories of children if such child is in fact

dependent on the member: a stepchild; an adopted child; or an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member) who either—

"(A) is under 21 years of age; or

"(B) is incapable of self-support because of a mental or physical incapacity, and in fact dependent on the member for over one-half of his support; and

"(3) his parent (including a stepparent or parent by adoption, and any person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least five years before the member became 21 years of age) who is in fact dependent on the member for over one-half of his support; however, the dependency of such a parent is determined on the basis of an affidavit submitted by the parent, and any other evidence required under regulations prescribed by the Secretary concerned, and he is not considered a dependent of the member claiming the dependence unless—

"(A) the member has provided over one-half of his support for the period prescribed by the Secretary concerned; or

"(B) due to changed circumstances arising after the member enters on active duty, he becomes in fact dependent on the member for over one-half of his support.

For the purposes of this section, the relationship between a stepparent and his stepchild is terminated by the stepparent's divorce from the parent by blood."

1987—Pub. L. 100-26 inserted "the term" after "In this chapter,".

1973—Cl. (2). Pub. L. 93-64, §103(1), in revising cl. (1) of first sentence, substituted "unmarried child" for "unmarried legitimate child" and defined dependent to include an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member.

Cl. (3). Pub. L. 93-64, §104, in revising cl. (3) of first sentence, substituted "five years before the member became 21 years" for "five years before he became 21 years", struck out requirement of actual residence of parent in the member's household, and inserted provision respecting determination of dependency of parent, including items (A) and (B), formerly contained in former section 2201 of Appendix to Title 50, War and National Defense.

Closing text. Pub. L. 93-64, §103(2), struck out second sentence, following cl. (3) of first sentence, stating that a person is not a dependent of a female member unless he is in fact dependent on her for over one-half of his support.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 631(b) of Pub. L. 103-160 provided that: "Section 401(a)(4) of title 37, United States Code, as added by subsection (a), shall apply with respect to determinations of dependency made on or after July 1, 1994."

#### EFFECTIVE DATE OF 1973 AMENDMENT

Section 206 of Pub. L. 93-64 provided that: "This Act [enacting section 1173 of Title 10, Armed Forces, amending this section and sections 302, 302a, 303, 308a, and 403 of this title, and repealing sections 2210 to 2212 of Title 50, Appendix, War and National Defense] shall become effective July 1, 1973."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403b, 411f of this title; title 10 section 2002; title 31 section 3342.

### § 402. Basic allowance for subsistence

(a) ENTITLEMENT TO ALLOWANCE.—(1) Except as provided in paragraph (2) or otherwise provided

by law, each member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for subsistence as set forth in this section.

(2) An enlisted member is not entitled to the basic allowance for subsistence during basic training.

(b) RATES OF ALLOWANCE BASED ON FOOD COSTS.—(1) The monthly rate of basic allowance for subsistence to be in effect for an enlisted member for a year (beginning on January 1 of that year) shall be the amount that is halfway between the following amounts, which are determined by the Secretary of Agriculture as of October 1 of the preceding year:

(A) The amount equal to the monthly cost of a moderate-cost food plan for a male in the United States who is between 20 and 50 years of age.

(B) The amount equal to the monthly cost of a liberal food plan for a male in the United States who is between 20 and 50 years of age.

(2) The monthly rate of basic allowance for subsistence to be in effect for an officer for a year (beginning on January 1 of that year) shall be the amount equal to the monthly rate of basic allowance for subsistence in effect for officers for the preceding year, increased by the same percentage by which the rate of basic allowance for subsistence for enlisted members for the preceding year is increased effective on such January 1.

(c) ADVANCE PAYMENT.—The allowance to an enlisted member may be paid in advance for a period of not more than three months.

(d) SPECIAL RULE FOR MEMBERS AUTHORIZED TO MESS SEPARATELY.—(1) In areas prescribed by the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an enlisted member described in paragraph (2) is entitled to not more than the pro rata allowance established under subsection (b)(1) for each meal the member buys from a source other than a messing facility of the United States.

(2) An enlisted member referred to in paragraph (1) is a member who is granted permission to mess separately and whose duties require the member to buy at least one meal from a source other than a messing facility of the United States.

(e) SPECIAL RULE FOR CERTAIN ENLISTED RESERVE MEMBERS.—Unless entitled to basic pay under section 204 of this title, an enlisted member of a reserve component may receive, at the discretion of the Secretary concerned, rations in kind, or a part thereof, when the member's instruction or duty periods, as described in section 206(a) of this title, total at least 8 hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.

(f) POLICIES ON USE OF DINING AND MESSING FACILITIES.—The Secretary of Defense, in consultation with the Secretaries concerned, shall prescribe policies regarding use of dining and field messing facilities of the uniformed services.

(g) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations for the administration of this section. Before prescribing the regulations, the Secretary shall consult with each Secretary concerned.

(2) The regulations shall include the specific rates of basic allowance for subsistence required by subsection (b).

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 89-444, §2(2), June 9, 1966, 80 Stat. 198; Pub. L. 93-419, §3(1)-(5), Sept. 19, 1974, 88 Stat. 1152; Pub. L. 96-513, title IV, §411, Dec. 12, 1980, 94 Stat. 2905; Pub. L. 98-94, title IX, §908(a), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98-525, title VI, §605, Oct. 19, 1984, 98 Stat. 2537; Pub. L. 98-557, §17(d), Oct. 30, 1984, 98 Stat. 2868; Pub. L. 99-145, title XIII, §1303(b)(5), Nov. 8, 1985, 99 Stat. 740; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title VI, §602(a)-(c)(1), Feb. 10, 1996, 110 Stat. 356, 357; Pub. L. 105-85, div. A, title VI, §602(a), Nov. 18, 1997, 111 Stat. 1771; Pub. L. 105-261, div. A, title VI, §604(a), Oct. 17, 1998, 112 Stat. 2037.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
402(a) .....	37:251(a) (1st sentence).	Oct. 12, 1949, ch. 681, §301, 63 Stat. 812; May 19, 1952, ch. 310, §1(d), 66 Stat. 80; Aug. 10, 1956, ch. 1041, §20(b), 70A Stat. 627; Sept. 2, 1958, Pub. L. 85-861, §10, 72 Stat. 1556.
402(b) .....	37:251(a) (2d and last sentences). 37:251(b). 37:251(c).	Aug. 1, 1953, ch. 305, §617, 67 Stat. 352.
	37:251a.	Oct. 12, 1949, ch. 681, §501(a) (45 words before proviso), (c) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay), 63 Stat. 825, 827; July 9, 1952, ch. 608, §244, 66 Stat. 494; June 30, 1960, Pub. L. 86-559, §8, 74 Stat. 282.
	37:301(a) (45 words before proviso).	
	37:301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay).	
402(c) .....	37:251(a) (less 1st, 2d, and last sentences).	
402(d) .....	37:251(e).	
402(e) .....	37:251(f).	
402(f) .....	37:251(d).	

In subsection (a), the words "in the amount set forth in subsection (d)" are substituted for the words "in such amounts . . . as are provided in this section".

In subsection (b), the words "on a daily basis" are substituted for the last sentence of section 251(a) of existing title 37. The words "United States" are substituted for the word "Government", in the 2d sentence of section 251(a) of existing title 37, section 251(b) of existing title 37, and section 251(e) of existing title 37. The word "confined" is substituted for the word "sick" for clarity. The last 16 words of the third sentence are substituted for section 251(b) (proviso) of existing title 37. The fourth sentence is substituted for section 251(a) of existing title 37. The last sentence is substituted for section 301(a) (45 words before proviso) of existing title 37 and section 301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay). In that sentence, the words "of a reserve component of a uniformed service, or of the National Guard" are substituted for the enumeration of the organizations concerned.

In subsection (c), the words "who are entitled to basic pay" are inserted to reflect the 1st sentence of section 251(a) of existing title 37.

In subsection (d), the reference in section 251(a) of existing title 37 to the allowance of \$1.05 per day for enlisted members granted permission to mess separately is omitted as superseded by section 251a.

In subsection (e), the words "Effective April 15, 1955," are omitted as executed. The words "United States"

are substituted for the word "Government". The words "messing facilities" are substituted for the word "messes" to conform to subsections (b) and (d).

## AMENDMENTS

1998—Subsecs. (e) to (g). Pub. L. 105-261 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

1997—Pub. L. 105-85 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e) relating to basic allowance for subsistence for members of the uniformed services.

1996—Subsec. (b). Pub. L. 104-106, §602(a), (b), designated first sentence as par. (1), redesignated former pars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively, of par. (1), designated second to fourth sentences as par. (2), designated fifth and sixth sentences as par. (3), and added par. (4).

Subsec. (e)(1). Pub. L. 104-106, §602(c)(1)(A), substituted "subsection (b)(2)" for "the third sentence of subsection (b)".

Subsec. (e)(2). Pub. L. 104-106, §602(c)(1)(B), substituted "subsection (b)(2)" for "subsection (b)".

1991—Subsec. (e). Pub. L. 102-25 struck out "of this section" after "subsection (b)" in pars. (1) and (2).

1985—Subsec. (b). Pub. L. 99-145 inserted "or as otherwise prescribed by law" after "title" at end of fourth sentence.

1984—Subsec. (b). Pub. L. 98-525 inserted "The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available."

Subsec. (d). Pub. L. 98-557 inserted provisions relating to Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

1983—Subsec. (e). Pub. L. 98-94 designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (b). Pub. L. 96-513, §411(a), inserted provisions authorizing an allowance while performing travel under orders, and struck out provisions prohibiting an allowance while being subsisted at the expense of United States.

Subsec. (e). Pub. L. 96-513, §411(b), inserted reference to definitions of "field duty" and "sea duty".

1974—Subsec. (a). Pub. L. 93-419, §3(1), struck out "this section or by another" after "otherwise provided by" and substituted "as set forth in this section" for "in the amount set forth in subsection (d) of this section".

Subsec. (b). Pub. L. 93-419, §3(2), substituted provisions for allowance for enlisted members authorized to receive basic allowance for subsistence under this subsection by reference to section 1009 of this title for provisions for allowance for enlisted members on leave or were authorized to mess separately at an amount equal to the cost of ration to be determined by the Secretary of Defense.

Subsec. (c). Pub. L. 93-419, §3(3), inserted reference to section 1009 of this title in provisions relating to the amount of basic allowance for subsistence.

Subsecs. (d) to (f). Pub. L. 93-419, §3(4), (5), struck out subsec. (d) which related to basic allowance for subsistence for members of the uniformed services, and redesignated subsecs. (e) and (f) as (d) and (e), respectively.

1966—Subsec. (c). Pub. L. 89-444 extended to aviation cadets of the Coast Guard the entitlement to the same basic allowance for subsistence as is provided for an officer of the Coast Guard.

## EFFECTIVE DATE OF 1997 AMENDMENT

Section 602(g) of Pub. L. 105-85 provided that: "This section [amending this section, section 404 of this title, and section 6081 of Title 10, Armed Forces, and enacting provisions set out as a note below] and the amendments made by this section shall take effect on January 1, 1998."

## EFFECTIVE DATE OF 1984 AMENDMENT

Section 605 of Pub. L. 98-525 provided that the amendment made by that section is effective Oct. 1, 1984.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by section 411 of Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 1974 AMENDMENT

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

## TRANSITIONAL AUTHORITY TO PROVIDE BASIC ALLOWANCE FOR SUBSISTENCE

Section 602(c)-(f) of Pub. L. 105-85, as amended by Pub. L. 105-261, div. A, title VI, §604(b), Oct. 17, 1998, 112 Stat. 2038, provided that:

"(c) TRANSITIONAL AUTHORITY TO PROVIDE BASIC ALLOWANCE FOR SUBSISTENCE.—

"(1) TRANSITIONAL AUTHORITY.—Notwithstanding section 402 of title 37, United States Code, as amended by subsection (a), during the period beginning on January 1, 1998, and ending on the date determined under paragraph (2)—

"(A) the basic allowance for subsistence shall not be paid under such section 402;

"(B) a member of the uniformed services is entitled to the basic allowance for subsistence only as provided in subsection (d);

"(C) an enlisted member of the uniformed services may be paid a partial basic allowance for subsistence as provided in subsection (e); and

"(D) the rates of the basic allowance for subsistence are those rates determined under subsection (f).

"(2) TERMINATION OF TRANSITIONAL AUTHORITY.—The transitional authority provided under paragraph (1) shall terminate on the first day of the month immediately following the first month for which the monthly equivalent of the rate of basic allowance for subsistence payable to enlisted members of the uniformed services (when permission to mess separately is granted, as determined under subsection (f)(2), is equal to or is exceeded by the amount that, except for paragraph (1)(A), would otherwise be the monthly rate of basic allowance for subsistence for enlisted members under section 402(b)(1) of title 37, United States Code, as amended by subsection (a).

"(d) TRANSITIONAL ENTITLEMENT TO ALLOWANCE.—

"(1) ENLISTED MEMBERS.—

"(A) TYPES OF ENTITLEMENT.—An enlisted member is entitled to the basic allowance for subsistence, on a daily basis, of [sic] under one or more of the following circumstances:

"(i) When rations in kind are not available.

"(ii) When permission to mess separately is granted.

"(iii) When assigned to duty under emergency conditions where no messing facilities of the United States are available.

"(B) OTHER ENTITLEMENT CIRCUMSTANCES.—An enlisted member is entitled to the allowance while on an authorized leave of absence, while confined in a hospital, or while performing travel under orders away from the member's designated post of duty other than field duty or sea duty (as defined in regulations prescribed by the Secretary of Defense). For purposes of the preceding sentence, a member shall not be considered to be performing travel under orders away from his designated post of duty if such member—

"(i) is an enlisted member serving the member's first tour of active duty;

“(ii) has not actually reported to a permanent duty station pursuant to orders directing such assignment; and

“(iii) is not actually traveling between stations pursuant to orders directing a change of station.

“(C) ADVANCE PAYMENT.—The allowance to an enlisted member, when authorized, may be paid in advance for a period of not more than three months.

“(D) SPECIAL RULE FOR CERTAIN ENLISTED RESERVE MEMBERS.—Unless entitled to basic pay under section 204 of title 37, United States Code, an enlisted member of a reserve component (as defined in section 101(24) of such title) may receive, at the discretion of the Secretary concerned (as defined in section 101(5) of such title), rations in kind, or a part thereof, when the member’s instruction or duty periods (as described in section 206(a) of such title) total at least 8 hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.

“(2) OFFICERS.—An officer of a uniformed service who is entitled to basic pay is, at all times, entitled to the basic allowances for subsistence. An aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard is entitled to the same basic allowance for subsistence as is provided for an officer of the Navy, Air Force, Marine Corps, or Coast Guard, respectively.

“(e) TRANSITIONAL AUTHORITY FOR PARTIAL ALLOWANCE.—

“(1) ENLISTED MEMBERS FURNISHED SUBSISTENCE IN KIND.—The Secretary of Defense may provide in regulations for an enlisted member of a uniformed service to be paid a partial basic allowance for subsistence when—

“(A) rations in kind are available to the member;

“(B) the member is not granted permission to mess separately; or

“(C) the member is assigned to duty under emergency conditions where messing facilities of the United States are available.

“(2) MONTHLY PAYMENT.—Any partial basic allowance for subsistence authorized under paragraph (1) shall be calculated on a daily basis and paid on a monthly basis.

“(f) TRANSITIONAL RATES.—

“(1) ALLOWANCE FOR OFFICERS.—The monthly rate of basic allowance for subsistence for a year (beginning on January 1 of that year) that is payable to officers of the uniformed services shall be the amount that is equal to 101 percent of the rate of basic allowance for subsistence that was payable to officers of the uniformed services for the preceding year.

“(2) ALLOWANCE FOR ENLISTED MEMBER WITH PERMISSION TO MESS SEPARATELY.—The monthly rate of basic allowance for subsistence for a year (beginning on January 1 of that year) that is payable to an enlisted member of the uniformed services entitled to the allowance under subsection (d)(1) shall be the amount that is equal to 101 percent of the rate of basic allowance for subsistence that was in effect for similarly situated enlisted members of the uniformed services for the preceding year.

“(3) PARTIAL ALLOWANCE FOR OTHER ENLISTED MEMBERS.—The monthly rate of any partial basic allowance for subsistence for a year (beginning on January 1 of that year) payable to an enlisted member of the uniformed services eligible for the allowance under the regulations prescribed under subsection (e)(1) shall be the amount equal to the lesser of the following:

“(A) The sum of—

“(i) the partial basic allowance for subsistence in effect for the preceding year; and

“(ii) the amount equal to the difference, if any, between—

“(I) the monthly equivalent of the rate of basic allowance for subsistence that was in ef-

fect for the preceding year for members of the uniformed services above grade E-1 (when permission to mess separately is granted), increased by the same percentage by which the rates of basic pay for members of the uniformed services is increased for the current year; and

“(II) the amount equal to 101 percent of the monthly equivalent of the rate of basic allowance for subsistence that was in effect for the previous year for members of the uniformed services above grade E-1 (when permission to mess separately is granted),

with the amount so determined under this clause multiplied by the number of members estimated to be entitled to receive basic allowance for subsistence under subsection (d) for the current year and then divided by the number of members estimated to be eligible for the partial allowance under the regulations prescribed under subsection (e)(1) for that year.

“(B) The amount equal to the difference between—

“(i) the amount that, except for subsection (c)(1)(A), would otherwise be the monthly rate of basic allowance for subsistence for enlisted members under section 402(b)(1) of title 37, United States Code; and

“(ii) the amount equal to the monthly equivalent of the value of a daily ration, as determined by the Under Secretary of Defense (Comptroller) as of October 1 of the preceding year.”

#### INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

Pub. L. 96-343, § 7, Sept. 8, 1980, 94 Stat. 1128, provided that: “Effective September 1, 1980, the rates of basic allowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act [Sept. 8, 1980] (as prescribed by the President under section 1009 of such title), are increased by 10 percent.”

#### REGULATIONS RELATING TO SUBSISTENCE ALLOWANCE

Regulations relating to basic allowance for subsistence, see Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

#### EXECUTIVE ORDER NO. 10119

Ex. Ord. No. 10119, Mar. 30, 1950, 15 F.R. 1767, as amended by 1953 Reorg. Plan No. 1, §§ 5, 8, Apr. 11, 1953, 18 F.R. 2053; Ex. Ord. No. 10605, Apr. 22, 1955, 20 F.R. 2747, which related to regulations governing basic allowance for subsistence, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

#### CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Aviation cadets, allowances, pensions, gratuities, and other benefits, see section 6912 of Title 10, Armed Forces.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 404, 420, 1003, 1009, 1012 of this title; title 10 sections 708, 6912; title 14 section 372; title 32 section 107.

### § 403. Basic allowance for housing

(a) GENERAL ENTITLEMENT.—(1) Except as otherwise provided by law, a member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for housing at the monthly rates prescribed under this section or another provision of law with regard to the applicable component of the basic allowance for housing. The amount of the basic allowance for

housing for a member will vary according to the pay grade in which the member is assigned or distributed for basic pay purposes, the dependency status of the member, and the geographic location of the member. The basic allowance for housing may be paid in advance.

(2) A member of a uniformed service with dependents is not entitled to a basic allowance for housing as a member with dependents unless the member makes a certification to the Secretary concerned indicating the status of each dependent of the member. The certification shall be made in accordance with regulations prescribed by the Secretary of Defense.

(b) BASIC ALLOWANCE FOR HOUSING INSIDE THE UNITED STATES.—(1) The Secretary of Defense shall determine the costs of adequate housing in a military housing area in the United States for all members of the uniformed services entitled to a basic allowance for housing in that area. The Secretary shall base the determination upon the costs of adequate housing for civilians with comparable income levels in the same area.

(2) Subject to paragraph (3), the monthly amount of a basic allowance for housing for an area of the United States for a member of a uniformed service is equal to the difference between—

(A) the monthly cost of adequate housing in that area, as determined by the Secretary of Defense, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member; and

(B) 15 percent of the national average monthly cost of adequate housing in the United States, as determined by the Secretary, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member.

(3) The rates of basic allowance for housing shall be reduced as necessary to comply with this paragraph. The total amount that may be paid for a fiscal year for the basic allowance for housing under this subsection is the product of—

(A) the total amount authorized to be paid for such allowance for the preceding fiscal year (as adjusted under paragraph (5)); and

(B) a fraction—

(i) the numerator of which is the index of the national average monthly cost of housing for June of the preceding fiscal year; and

(ii) the denominator of which is the index of the national average monthly cost of housing for June of the fiscal year before the preceding fiscal year.

(4) An adjustment in the rates of the basic allowance for housing under this subsection as a result of the Secretary's redetermination of housing costs in an area shall take effect on the same date as the effective date of the next increase in basic pay under section 1009 of this title or other provision of law.

(5) In making a determination under paragraph (3) for a fiscal year, the amount authorized to be paid for the preceding fiscal year for the basic allowance for housing shall be adjusted to reflect changes during the year for which the determination is made in the number, grade dis-

tribution, geographic distribution in the United States, and dependency status of members of the uniformed services entitled to the allowance from the number of such members during the preceding fiscal year.

(6) So long as a member of a uniformed service retains uninterrupted eligibility to receive a basic allowance for housing within an area of the United States, the monthly amount of the allowance for the member may not be reduced as a result of changes in housing costs in the area, changes in the national average monthly cost of housing, or the promotion of the member.

(7) In the case of a member without dependents who is assigned to duty inside the United States, the location or the circumstances of which make it necessary that the member be re-assigned under the conditions of low-cost or no-cost permanent change of station or permanent change of assignment, the member may be treated as if the member were not reassigned if the Secretary concerned determines that it would be inequitable to base the member's entitlement to, and amount of, a basic allowance for housing on the cost of housing in the area to which the member is reassigned.

(c) BASIC ALLOWANCE FOR HOUSING OUTSIDE THE UNITED STATES.—(1) The Secretary of Defense may prescribe an overseas basic allowance for housing for a member of a uniformed service who is on duty outside of the United States. The Secretary shall establish the basic allowance for housing under this subsection on the basis of housing costs in the overseas area in which the member is assigned.

(2) So long as a member of a uniformed service retains uninterrupted eligibility to receive a basic allowance for housing in an overseas area and the actual monthly cost of housing for the member is not reduced, the monthly amount of the allowance in an area outside the United States may not be reduced as a result of changes in housing costs in the area or the promotion of the member. The monthly amount of the allowance may be adjusted to reflect changes in currency rates.

(3)(A) In the case of a member of the uniformed services authorized to receive an allowance under paragraph (1), the Secretary concerned may make a lump-sum payment to the member for required deposits and advance rent, and for expenses relating thereto, that are—

(i) incurred by the member in occupying private housing outside of the United States; and

(ii) authorized or approved under regulations prescribed by the Secretary concerned.

(B) Expenses for which a member may be reimbursed under this paragraph may include losses relating to housing that are sustained by the member as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.

(C) The Secretary concerned shall recoup the full amount of any deposit or advance rent payments made by the Secretary under subparagraph (A), including any gain resulting from currency fluctuations between the time of payment and the time of recoupment.

(d) BASIC ALLOWANCE FOR HOUSING WHEN DEPENDENTS ARE UNABLE TO ACCOMPANY MEMBER.—(1) A member of a uniformed service with dependents who is on permanent duty at a location described in paragraph (2) is entitled to a family separation basic allowance for housing under this subsection at a monthly rate equal to the rate of the basic allowance for housing established under subsection (b) or the overseas basic allowance for housing established under subsection (c), whichever applies to that location, for members in the same grade at that location without dependents.

(2) A permanent duty location referred to in paragraph (1) is a location—

(A) to which the movement of the member's dependents is not authorized at the expense of the United States under section 406 of this title, and the member's dependents do not reside at or near the location; and

(B) at which quarters of the United States are not available for assignment to the member.

(3) In the case of a member with dependents who is assigned to duty at a location or under circumstances that, as determined by the Secretary concerned, require the member's dependents to reside at a different location, the member shall receive a basic allowance for housing, as provided in subsection (a) or (b), as if the member were assigned to duty in the area in which the dependents reside, regardless of whether the member resides in quarters of the United States or is also entitled to a family separation basic allowance for housing by reason of paragraph (1).

(4) The family separation basic allowance for housing under this subsection shall be in addition to any other allowance or per diem that the member is otherwise entitled to receive under this title. A member may receive a basic allowance for housing under both paragraphs (1) and (3).

(e) EFFECT OF ASSIGNMENT TO QUARTERS.—(1) Except as otherwise provided by law, a member of a uniformed service who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service appropriate to the grade, rank, or rating of the member and adequate for the member and dependents of the member, if with dependents, is not entitled to a basic allowance for housing.

(2) A member without dependents who is in a pay grade above pay grade E-6 and who is assigned to quarters in the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to the grade or rank of the member and adequate for the member, may elect not to occupy those quarters and instead to receive the basic allowance for housing prescribed for the member's pay grade by this section.

(3) A member without dependents who is in pay grade E-6 and who is assigned to quarters of the United States that do not meet the minimum adequacy standards established by the Secretary of Defense for members in such pay grade, or to a housing facility under the jurisdiction of a uniformed service that does not

meet such standards, may elect not to occupy such quarters or facility and instead to receive the basic allowance for housing prescribed for the member's pay grade under this section.

(4) The Secretary concerned may deny the right to make an election under paragraph (2) or (3) if the Secretary determines that the exercise of such an election would adversely affect a training mission, military discipline, or military readiness.

(5) A member with dependents who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service may be paid the basic allowance for housing if, because of orders of competent authority, the dependents are prevented from occupying those quarters.

(f) INELIGIBILITY DURING INITIAL FIELD DUTY OR SEA DUTY.—(1) A member of a uniformed service without dependents who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a basic allowance for housing while on that initial field duty unless the commanding officer of the member certifies that the member was necessarily required to procure quarters at the member's expense.

(2)(A) Except as provided in subparagraphs (B) and (C), a member of a uniformed service without dependents who is in a pay grade below pay grade E-6 is not entitled to a basic allowance for housing while the member is on sea duty.

(B) Under regulations prescribed by the Secretary concerned, the Secretary may authorize the payment of a basic allowance for housing to a member of a uniformed service without dependents who is serving in pay grade E-5 and is assigned to sea duty. In prescribing regulations under this subparagraph, the Secretary concerned shall consider the availability of quarters for members serving in pay grade E-5.

(C) Notwithstanding section 421 of this title, two members of the uniformed services in a pay grade below pay grade E-6 who are married to each other, have no other dependents, and are simultaneously assigned to sea duty are jointly entitled to one basic allowance for housing during the period of such simultaneous sea duty. The amount of the allowance shall be based on the without dependents rate for the pay grade of the senior member of the couple. However, this subparagraph shall not apply to a couple if one or both of the members are entitled to a basic allowance for housing under subparagraph (B).

(3) The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, shall prescribe regulation<sup>1</sup> defining the terms "field duty" and "sea duty" for purposes of this section.

(g) RESERVE MEMBERS.—(1) A member of a reserve component without dependents who is called or ordered to active duty in support of a contingency operation, or a retired member without dependents who is ordered to active duty under section 688(a) of title 10 in support of a contingency operation, may not be denied a

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



basic allowance for housing if, because of that call or order, the member is unable to continue to occupy a residence—

(A) which is maintained as the primary residence of the member at the time of the call or order; and

(B) which is owned by the member or for which the member is responsible for rental payments.

(2) Paragraph (1) shall not apply if the member is authorized transportation of household goods under section 406 of this title as part of the call or order to active duty described in such paragraph.

(3) The Secretary of Defense shall establish a rate of basic allowance for housing to be paid to a member of a reserve component while the member serves on active duty under a call or order to active duty specifying a period of less than 140 days, unless the call or order to active duty is in support of a contingency operation.

(h) RENTAL OF PUBLIC QUARTERS.—Notwithstanding any other law (including those restricting the occupancy of housing facilities under the jurisdiction of a department or agency of the United States by members, and their dependents, of the armed forces above specified grades, or by members, and their dependents, of the National Oceanic and Atmospheric Administration and the Public Health Service), a member of a uniformed service, and the dependents of the member, may be accepted as tenants in, and may occupy on a rental basis, any of those housing facilities, other than public quarters constructed or designated for assignment to an occupancy without charge by such a member and the dependents of the member, if any. Such a member may not, because of occupancy under this subsection, be deprived of any money allowance to which the member is otherwise entitled for the rental of quarters.

(i) TEMPORARY HOUSING ALLOWANCE WHILE IN TRAVEL OR LEAVE STATUS.—A member of a uniformed service who is in a pay grade E-4 (4 or more years of service) or above is entitled to a temporary basic allowance for housing (at a rate determined by the Secretary of Defense) while the member is in a travel or leave status between permanent duty stations, including time granted as delay en route or proceed time, when the member is not assigned to quarters of the United States.

(j) AVIATION CADETS.—The eligibility of an aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard for a basic allowance for housing shall be determined as if the aviation cadet were a member of the uniformed services in pay grade E-4.

(k) ADMINISTRATION.—(1) The Secretary of Defense shall prescribe regulations for the administration of this section.

(2) The Secretary concerned may make such determinations as may be necessary to administer this section, including determinations of dependency and relationship. When warranted by the circumstances, the Secretary concerned may reconsider and change or modify any such determination. The authority of the Secretary concerned under this subsection may be dele-

gated. Any determination made under this section with regard to a member of the uniformed services is final and is not subject to review by any accounting officer of the United States or a court, unless there is fraud or gross negligence.

(3) Parking facilities (including utility connections) provided members of the uniformed services for house trailers and mobile homes not owned by the Government shall not be considered to be quarters for the purposes of this section or any other provision of law. Any fees established by the Government for the use of such a facility shall be established in an amount sufficient to cover the cost of maintenance, services, and utilities and to amortize the cost of construction of the facility over the 25-year period beginning with the completion of such construction.

(l) TEMPORARY CONTINUATION OF ALLOWANCE FOR DEPENDENTS OF MEMBERS DYING ON ACTIVE DUTY.—(1) The Secretary of Defense, or the Secretary of Transportation in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the armed forces who dies on active duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Transportation in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of 180 days.

(2) The Secretary concerned may pay a basic allowance for housing (at the rate that is payable for members of the same grade and dependency status as the deceased member for the area where the dependents are residing) to the dependents of a member of the uniformed services who dies while on active duty and whose dependents—

(A) are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death;

(B) are occupying such housing on a rental basis on such date; or

(C) vacate such housing sooner than 180 days after the date of the member's death.

(3) The payment of the allowance under paragraph (2) shall terminate 180 days after the date of the member's death.

(m) MEMBERS PAYING CHILD SUPPORT.—(1) A member of a uniformed service with dependents may not be paid a basic allowance for housing at the with dependents rate solely by reason of the payment of child support by the member if—

(A) the member is assigned to a housing facility under the jurisdiction of a uniformed service; or

(B) the member is assigned to sea duty, and elects not to occupy assigned quarters for unaccompanied personnel, unless the member is in a pay grade above E-4.

(2) A member of a uniformed service assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service who is not otherwise authorized a basic allowance for housing and who pays child support is entitled to the basic allowance for housing differential, except for months for which the

amount payable for the child support is less than the rate of the differential. Payment of a basic allowance for housing differential does not affect any entitlement of the member to a partial allowance for quarters under subsection (n).

(3) The basic allowance for housing differential to which a member is entitled under paragraph (2) is the amount equal to the difference between—

(A) the rate of the basic allowance for quarters (with dependents) for the member's pay grade, as such rate was in effect on December 31, 1997, under this section (as in effect on that date); and

(B) the rate of the basic allowance for quarters (without dependents) for the member's pay grade, as such rate was in effect on December 31, 1997, under this section (as in effect on that date).

(4) Whenever the rates of basic pay for members of the uniformed services are increased, the monthly amount of the basic allowance for housing differential computed under paragraph (3) shall be increased by the average percentage increase in the rates of basic pay. The effective date of the increase shall be the same date as the effective date of the increase in the rates of basic pay.

(5) In the case of two members, who have one or more common dependents (and no others), who are not married to each other, and one of whom pays child support to the other, the amount of the basic allowance for housing paid to each member under this section shall be reduced in accordance with regulations prescribed by the Secretary of Defense. The total amount of the basic allowances for housing paid to the two members may not exceed the sum of the amounts of the allowance to which each member would be otherwise entitled under this section.

(n) PARTIAL ALLOWANCE FOR MEMBERS WITHOUT DEPENDENTS.—(1) A member of a uniformed service without dependents who is not entitled to receive a basic allowance for housing under subsection (b), (c), or (d) is entitled to a partial basic allowance for housing at a rate determined by the Secretary of Defense under paragraph (2).

(2) The rate of the partial basic allowance for housing is the partial rate of the basic allowance for quarters for the member's pay grade as such partial rate was in effect on December 31, 1997, under section 1009(c)(2) of this title (as such section was in effect on such date).

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 88-132, §10, Oct. 2, 1963, 77 Stat. 216; Pub. L. 89-718, §§49(a)(1), 54, Nov. 2, 1966, 80 Stat. 1121, 1122; Pub. L. 90-207, §1(3), Dec. 16, 1967, 81 Stat. 651; Pub. L. 92-129, title II, §204, Sept. 28, 1971, 85 Stat. 358; Pub. L. 93-64, title I, §105, July 9, 1973, 87 Stat. 148; Pub. L. 93-419, §3(6), Sept. 19, 1974, 88 Stat. 1152; Pub. L. 96-343, §4(a)(1), (2), Sept. 8, 1980, 94 Stat. 1125; Pub. L. 96-513, title V, §516(10), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96-579, §§6(a)-(c), 7, Dec. 23, 1980, 94 Stat. 3367, 3368; Pub. L. 97-22, §11(b)(2), July 10, 1981, 95 Stat. 138; Pub. L. 98-94, title IX, §907(a), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98-525, title VI, §§602(c), 604(a), Oct. 19, 1984, 98 Stat. 2534, 2537; Pub. L. 99-145, title VI, §§604(a), 605(a), title VIII, §809(b),

title XIII, §1303(b)(6), Nov. 8, 1985, 99 Stat. 638, 681, 740; Pub. L. 99-227, §1, Dec. 28, 1985, 99 Stat. 1745; Pub. L. 100-26, §8(d)(5), Apr. 21, 1987, 101 Stat. 285; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §§602(a), 604(a), 632(a), Dec. 5, 1991, 105 Stat. 1373, 1374, 1380; Pub. L. 103-337, div. A, title VI, §604(a), (b), Oct. 5, 1994, 108 Stat. 2782; Pub. L. 104-106, div. A, title VI, §§603(a), 604(a), Feb. 10, 1996, 110 Stat. 357, 358; Pub. L. 104-201, div. A, title VI, §§604(a)-(c), 605, Sept. 23, 1996, 110 Stat. 2540, 2541; Pub. L. 105-85, div. A, title VI, §603(a), Nov. 18, 1997, 111 Stat. 1775; Pub. L. 105-261, div. A, title VI, §603(a), Oct. 17, 1998, 112 Stat. 2037.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
403(a) .....	37:252(a). 37:252(f).	Oct. 12, 1949, ch. 681, §302(a)-(f), 63 Stat. 812; May 19, 1952, ch. 310, §1(b), (c), 66 Stat. 79; May 20, 1958, Pub. L. 85-422, §1(9), 72 Stat. 127.
403(b) .....	37:252(b).	July 2, 1945, ch. 227, 59 Stat. 316.
403(c) .....	37:252(c).	June 29, 1950, ch. 405, §102, 64 Stat. 288.
403(d) .....	37:252(d).	
403(e) .....	37:111a.	
403(f) .....	37:320.	
403(g) .....	37:252(e).	

In subsection (a), the words "at the following monthly rates" are substituted for the words "in such amount and under such circumstances as are provided in this section". Section 252(f) (words before table) of existing title 37 is omitted as surplusage.

In subsections (b), (d), and (e), the words "United States" are substituted for the word "Government".

In subsection (c), the words "a period" are substituted for the words "temporary periods".

In subsection (e), the words "member" and "members" are substituted for the word "personnel".

In subsection (f), the words "may be used" are substituted for the words "shall be available". The words "for any periods after June 29, 1950," are omitted as executed. The words "(as defined in sections 231(g) and 252 of this title)" are omitted as covered by section 401 of this revised title.

In subsection (g), the word "including" is substituted for the words "and such regulations shall include, but not be limited to".

AMENDMENTS

1998—Subsec. (c)(3). Pub. L. 105-261 added par. (3).

1997—Pub. L. 105-85 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (m) relating to basic allowances for quarters.

1996—Subsec. (b). Pub. L. 104-106, §603(a), designated first sentence as par. (1), designated second sentence as par. (2) and substituted "Subject" for "However, subject", and added par. (3).

Subsec. (b)(3). Pub. L. 104-201, §605, substituted "Subject to the provisions of subsection (j), a member" for "A member".

Subsec. (c)(2). Pub. L. 104-201, §604(a)-(c), designated first sentence as subpar. (A) and substituted "Except as provided in subparagraphs (B) and (C), a member" for "A member", added subpars. (B) and (C), and struck out former second sentence which read as follows: "A member of a uniformed service without dependents who is in a pay grade above E-5 who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting."

Pub. L. 104-106, §604(a), substituted "E-6" for "E-7" in first sentence and "E-5" for "E-6" in second sentence.

1994—Subsec. (l). Pub. L. 103-337 substituted “180 days” for “90 days” wherever appearing.

1991—Subsec. (a). Pub. L. 102-190, § 604(a)(1), designated existing provisions as par. (1) and added par. (2).

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

Subsec. (d). Pub. L. 102-190, § 632(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (j)(1). Pub. L. 102-190, § 604(a)(2), substituted “Secretary of Defense shall” for “President may”.

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

Subsec. (m). Pub. L. 102-190, § 602(a), added subsec. (m).

1987—Subsec. (l)(1). Pub. L. 100-26 substituted “armed forces” for “Armed Forces”.

1985—Subsec. (a). Pub. L. 99-145, § 1303(b)(6), inserted “or as otherwise prescribed by law” after “of this title”.

Pub. L. 99-145, § 604(a), inserted provision permitting the allowance authorized by this section to be paid in advance.

Subsec. (c)(1). Pub. L. 99-145, § 605(a)(1), substituted “who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a basic allowance for quarters while on that initial field duty” for “is not entitled to a basic allowance for quarters while he is on field duty”.

Subsec. (c)(2). Pub. L. 99-145, § 605(a)(2), substituted “who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting” for “and who is on sea duty is not entitled to a basic allowance for quarters while the unit to which he is assigned is deployed for a period in excess of 90 days”.

Subsec. (c)(3). Pub. L. 99-145, § 605(a)(3), struck out par. (3) which provided that for purposes of this subsection, duty for a period of less than three months was not considered to be field duty or sea duty.

Subsec. (k). Pub. L. 99-145, § 809(b), substituted “25-year period” for “15-year period”.

Subsec. (l). Pub. L. 99-227 added subsec. (l).  
1984—Pub. L. 98-525, § 602(c)(2), struck out “; variable housing allowance” in section catchline.

Subsec. (a). Pub. L. 98-525, § 602(c)(1), struck out designation for par. (1) preceding “Except as otherwise provided by law” and struck out par. (2) which related to variable housing allowances.

Subsec. (j)(2). Pub. L. 98-525, § 604(a), inserted reference to training missions.

1983—Subsec. (a)(2)(A), (D). Pub. L. 98-94 substituted “Except as provided in subparagraph (D) of this paragraph, a member” for “A member” at beginning of subpar. (A), and added subpar. (D).

1981—Subsec. (b). Pub. L. 97-22 substituted “pay grade E-6” for “pay grade F-6”.

1980—Pub. L. 96-343, § 4(a)(2), substituted “for quarters; variable housing allowance” for “for quarters” in section catchline.

Subsec. (a). Pub. L. 96-343, § 4(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 96-579, § 6(a)(1), (2), substituted in second sentence “subject to the provisions of subsection (j)” for “except as provided by regulations prescribed under subsection (j)”, “member” for “commissioned officer”, and “F-6” for “C-3”. Because “C-3” did not appear in this subsection, “F-6” was substituted for “O-3” as the probable intent of Congress.

Subsec. (c). Pub. L. 96-579, § 6(b), reenacted existing text in provisions designated as pars. (1) and (3), and substituted par. (2) respecting nonentitlement to basic allowance for quarters when on sea duty for member of a uniformed service in pay grade below E-7 or above E-6 for prior nonentitlement provision for such member when on sea duty.

Subsec. (e). Pub. L. 96-513, § 516(10)(A), substituted “National Oceanic and Atmospheric Administration” for “Environmental Science Services Administration”.

Subsec. (j). Pub. L. 96-579, § 6(c), designated existing provisions as par. (1) and added par. (2).

Pub. L. 96-513, § 516(10)(B), substituted “terms” for “words”.

Subsec. (k). Pub. L. 96-579, § 7, added subsec. (k).

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

1973—Subsec. (a). Pub. L. 93-64, § 105(1), (2), substituted in table provisions reading:

“E-4 .....	\$81.60	\$121.50
E-3 .....	72.30	105.00
E-2 .....	63.90	105.00
E-1 .....	60.00	105.00”
for former provisions reading:		
“E-4 (over 4 years’ service) .....	81.60	121.50
E-4 (4 years’ or less service) .....	45.00	45.00
E-3 .....	45.00	45.00
E-2 .....	45.00	45.00
E-1 .....	45.00	45.00”

and struck out “A member in pay grade E-4 (less than four years’ service), E-3, E-2, or E-1 is considered at all times to be without dependents.”.

Subsec. (b). Pub. L. 93-64, § 105(3), in second sentence substituted reference to subsection “(j)” for “(g)”.

Subsecs. (g) to (j). Pub. L. 93-64, § 105(4), (5), added subsecs. (g) to (i) and redesignated former subsec. (g) as (j).

1971—Subsec. (a). Pub. L. 92-129 increased quarters allowances as shown in table. Prior to this amendment the table was set out as follows:

“Pay grade	Without dependents	With dependents
O-10 .....	\$160.20	\$201.00
O-9 .....	160.20	201.00
O-8 .....	160.20	201.00
O-7 .....	160.20	201.00
O-6 .....	140.10	170.10
O-5 .....	130.20	157.50
O-4 .....	120.00	145.05
O-3 .....	105.00	130.05
O-2 .....	95.10	120.00
O-1 .....	85.20	110.10
W-4 .....	120.00	145.05
W-3 .....	105.00	130.05
W-2 .....	95.10	120.00
W-1 .....	85.20	110.10
E-9 .....	85.20	120.00
E-8 .....	85.20	120.00
E-7 .....	75.00	114.90
E-6 .....	70.20	110.10
E-5 .....	70.20	105.00
E-4 (over 4 years’ service) .....	70.20	105.00
E-4 (4 years’ or less service) .....	45.00	45.00
E-3 .....	45.00	45.00
E-2 .....	45.00	45.00
E-1 .....	45.00	45.00”

1967—Subsec. (f). Pub. L. 90-207 substituted provisions authorizing the payment of a basic allowance for quarters to a member of a uniformed service without dependents who is in pay grade E-4 (four or more years’ service) or above for the period he is in a travel or leave status between permanent duty stations for provisions which precluded the payment of a basic allowance for quarters to a member of a uniformed service without dependents while in a permanent change of station status.

1966—Subsec. (a). Pub. L. 89-718 increased the quarters allowances as shown on the table. Prior to this amendment the table was set out as follows:

“Pay grade	Without dependents	With dependents
O-10 .....	\$171.00	\$136.80
O-9 .....	171.00	136.80
O-8 .....	171.00	136.80
O-7 .....	171.00	136.80

“Pay grade	Without dependents	With dependents
O-6 .....	136.80	119.70
O-5 .....	136.80	102.60
O-4 .....	119.70	94.20
O-3 .....	102.60	85.50
O-2 .....	94.20	77.10
O-1 .....	85.50	68.40
W-4 .....	119.70	94.20
W-3 .....	102.60	85.50
W-2 .....	94.20	77.10
W-1 .....	85.50	68.40
E-9 .....	67.50	45.00
E-8 .....	67.50	45.00
E-7 .....	67.50	45.00
E-6 .....	67.50	45.00
E-5 .....	67.50	45.00
E-4 (7 or more years' service creditable under section 205) .....	67.50	45.00
E-4 (less than 7 years' service creditable under section 205) .....	45.00	45.00
E-3 .....	45.00	45.00
E-2 .....	45.00	45.00
E-1 .....	45.00	45.00

Subsec. (e). Pub. L. 89-718 substituted “Environmental Science Services Administration” for “Coast and Geodetic Survey”.

1963—Subsec. (b). Pub. L. 88-132 authorized election by certain officers without dependents not to occupy government quarters.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title VI, §603(c), Oct. 17, 1998, 112 Stat. 2037, provided that: “The reimbursement authority provided by section 403(c)(3)(B) of title 37, United States Code, as added by subsection (a), applies with respect to losses relating to housing that are sustained, on or after July 1, 1997, by a member of the uniformed services as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.”

EFFECTIVE DATE OF 1997 AMENDMENT

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

EFFECTIVE DATE OF 1996 AMENDMENTS

Section 604(e) of Pub. L. 104-201 provided that: “The amendments made by this section [amending this section and section 403a of this title] shall take effect on July 1, 1997.”

Section 603(b) of Pub. L. 104-106 provided that: “The amendments made by this section [amending this section] shall take effect on July 1, 1996.”

Section 604(b) of Pub. L. 104-106 provided that: “The amendments made by this section [amending this section] shall take effect on July 1, 1996.”

EFFECTIVE DATE OF 1994 AMENDMENT

Section 604(c) of Pub. L. 103-337 provided that: “The amendments made by this section [amending this section] shall take effect as of October 1, 1993.”

EFFECTIVE DATE OF 1991 AMENDMENT

Section 604(c) of Pub. L. 102-190 provided that: “The amendments made by this section [amending this section and section 403a of this title] shall take effect six months after the date of the enactment of this Act [Dec. 5, 1991].”

Section 632(b) of Pub. L. 102-190 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 5, 1991] and shall apply to calls or orders of members of the reserve components of the Armed Forces to active duty on or after that date.”

EFFECTIVE DATE OF 1985 AMENDMENTS

Section 2 of Pub. L. 99-227 provided that: “The amendments made by section 1 of this Act [amending

this section] shall take effect December 12, 1985, and shall apply only with respect to housing for and payment of an allowance for quarters to dependents of members of the uniformed services who died on or after that date.”

Section 604(c) of Pub. L. 99-145 provided that: “The amendments made by this section [amending this section and section 403a of this title] shall take effect on October 1, 1985.”

Section 605(b) of Pub. L. 99-145 provided that:

“(1) The amendments made by paragraphs (1) and (2) of subsection (a) [amending this section] shall take effect on October 1, 1985.

“(2) The amendment made by paragraph (3) of subsection (a) [amending this section] shall take effect on January 1, 1986.”

Amendment by section 809(b) of Pub. L. 99-145 effective Oct. 1, 1985, see section 813 of Pub. L. 99-145, formerly set out in a Military Family Policy and Programs note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 602(f) of Pub. L. 98-525, as amended by Pub. L. 99-145, title VI, §603(b), Nov. 8, 1985, 99 Stat. 637; Pub. L. 99-661, div. A, title XIII, §1342(b), Nov. 14, 1986, 100 Stat. 3991, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [enacting section 403a of this title, amending this section, section 405 of this title, section 7572 of Title 10, Armed Forces, and provisions set out as a note under this section, and enacting provisions set out as a note under this section] shall take effect on January 1, 1985.

“(2)(A) A member shall be entitled to receive a station housing allowance under section 405 of title 37, United States Code, as if the amendments made by subsection (e) [amending section 405 of this title] had not been enacted, if the member, on the date of the enactment of the Department of Defense Authorization Act, 1986 [Nov. 8, 1985]—

“(i) is assigned to a permanent duty station in Alaska or Hawaii; and

“(ii) is entitled to payment of a temporary lodging allowance or a station housing allowance under section 405 of such title.

“(B) A member who is entitled to a station housing allowance by reason of subparagraph (A) shall only be entitled to such allowance until the earlier of—

“(i) the date on which the member changes residence in conjunction with a permanent change of duty station; or

“(ii) the expiration of the four-year period beginning on the date of the enactment of the Department of Defense Authorization Act, 1986 [Nov. 8, 1985].

“(C) A member who is entitled to a station housing allowance by reason of subparagraph (A) shall not be entitled to a variable housing allowance, except that such a member serving an unaccompanied tour of duty in Alaska or Hawaii may be paid a variable housing allowance based on the residence of the member's dependents in another State.

“(3) For the period beginning on January 1, 1985, and ending on September 30, 1985, the limitation applicable under subsection (d)(1) of section 403a of title 37, United States Code (as added by subsection (d)), on the total amount that may be paid during a fiscal year for the variable housing allowance authorized members of the uniformed services by that section shall be 15 percent of the median annual costs of housing in the United States for members of the uniformed services as measured during fiscal year 1984. In determining for the purposes of clause (A) of such subsection the total amount authorized to be paid for such allowance for fiscal year 1985, such amount shall be determined as if the amendments made by this section took effect on October 1, 1984.”

[Amendment of this note by Pub. L. 99-661 effective Nov. 14, 1986, see section 1342(h)(1) of Pub. L. 99-661, set

out as an Effective Date of 1986 Amendment note under section 301 of this title.]

Section 604(b) of Pub. L. 98-525 provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to members making an election under section 403(b) of title 37, United States Code, after September 30, 1984."

#### EFFECTIVE DATE OF 1983 AMENDMENT

Section 907(b) of Pub. L. 98-94 provided that: "The amendments made by subsection (a) [amending this section] shall apply only with respect to members called or ordered to active duty after September 30, 1983."

#### EFFECTIVE DATE OF 1981 AMENDMENT

Section 11(b)(2) of Pub. L. 97-22 provided that the amendment made by that section is effective Oct. 1, 1980.

#### EFFECTIVE DATE OF 1980 AMENDMENTS

Section 6(d) of Pub. L. 96-579 provided that: "The amendments made by this section [amending this section] shall only apply to payment of basic allowance for quarters for months after September 1980."

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

Section 4(b) of Pub. L. 96-343 provided that: "Paragraph (2) of section 403(a) of title 37, United States Code, as added by subsection (a), shall take effect on September 30, 1981."

#### EFFECTIVE DATE OF 1974 AMENDMENT

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

#### EFFECTIVE DATE OF 1973 AMENDMENT

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

#### EFFECTIVE DATE OF 1971 AMENDMENT

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

#### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-207 effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as a note under section 203 of this title.

#### EFFECTIVE DATE OF 1963 AMENDMENT

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

#### TRANSFER OF FUNCTIONS

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

#### TRANSITION TO BASIC ALLOWANCE FOR HOUSING

Section 603(b) of Pub. L. 105-85 provided that: "The Secretary of Defense shall develop and implement a plan to incrementally manage the rate of growth of the various components of the basic allowance for housing

authorized by section 403 of title 37, United States Code (as amended by subsection (a)), during a transition period of not more than six years. During the transition period, the Secretary may continue to use the authorities provided under sections 403, 403a, 405(b), and 427(a) of title 37, United States Code (as in effect on the day before the date of the enactment of this Act [Nov. 18, 1997]), but subject to such modifications as the Secretary considers necessary, to provide allowances for members of the uniformed services."

#### EXCEPTION TO LIMITATION ON AMOUNT OF BASIC ALLOWANCE FOR QUARTERS FOR MEMBERS RECEIVING ALLOWANCE DUE TO PAYMENT OF CHILD SUPPORT

Section 602(b) of Pub. L. 102-190 provided that subsec. (m) of this section, as added by section 602(a) of Pub. L. 102-190, temporarily was not to apply with respect to a member of a uniformed service assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service who, on the day before Dec. 5, 1991, was entitled to receive a basic allowance for quarters solely by reason of the member's payment of child support.

#### ACTIVE DUTY IN CONNECTION WITH OPERATION DESERT STORM

Section 310A of Pub. L. 102-25 provided that, during the period beginning on Aug. 2, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict, a member of a reserve component of the uniformed services without dependents who was called or ordered to active duty in connection with Operation Desert Storm was to be entitled to a basic allowance for quarters under this section if, because of the call or order, the member was unable to continue to occupy a residence maintained as the primary residence of the member at the time of the call or order, and owned by the member or for which the member was responsible for rental payments.

#### INCREASE IN BASIC ALLOWANCE FOR QUARTERS EFFECTIVE JANUARY 1, 1989

Pub. L. 100-456, div. A, title VI, §601(c), Sept. 29, 1988, 102 Stat. 1976, provided that the rates of basic allowance for quarters for members of the uniformed services were increased by 7 percent effective on Jan. 1, 1989, and authorized the President to allocate the increase among pay grades and dependency categories, and the Secretary of Defense to establish separate rates of basic allowance for quarters for commissioned officers credited with over four years of active service as enlisted members or warrant officers.

#### MINIMUM RATE OF QUARTERS ALLOWANCE SET AT RATE AS OF DECEMBER 31, 1984

Pub. L. 99-190, §101(b) [title VIII, §8088], Dec. 19, 1985, 99 Stat. 1185, 1216, provided that effective Jan. 1, 1985, the rate of the basic allowance for quarters authorized by subsec. (a) of this section which was payable to a member of the uniformed services who was entitled to that allowance on Dec. 31, 1984, was not to be less than the rate of the basic allowance for quarters that was in effect for that member on Dec. 31, 1984, with certain exceptions.

#### BASIC ALLOWANCE FOR QUARTERS AND VARIABLE HOUSING ALLOWANCE

Section 602(a) of Pub. L. 98-525, as amended by Pub. L. 99-661, div. A, title XIII, §1341(a), Nov. 14, 1986, 100 Stat. 3990, revised, effective Jan. 1, 1985, the rates of the basic allowance for quarters authorized by subsec. (a)(1) of this section and provided that, during the period beginning on Jan. 1, 1985, and ending on the effective date of a change made by law in the rates of basic allowance for quarters that increased the rates for such allowance to a level not less than 7 percent greater

than the rates in effect on Jan. 1, 1985, the rate of the basic allowance for quarters authorized by subsec. (a)(1) of this section which was payable to a member of the uniformed services who was entitled to that allowance during such period and who was entitled to that allowance on Dec. 31, 1984, was not to be less than the rate of the basic allowance for quarters that was in effect for that member on Dec. 31, 1984, with certain exceptions.

FREEZE OF VARIABLE HOUSING ALLOWANCE AT FISCAL YEAR 1983 RATES

Section 906 of Pub. L. 98-94, as amended by Pub. L. 98-525, title VI, §602(b)(2), Oct. 19, 1984, 98 Stat. 2534, provided that during the period beginning on Oct. 1, 1983, and ending on Jan. 1, 1985, the rates at which the variable housing allowance under subsec. (a)(2) of this section was paid was to be the same as the rates in effect on Sept. 30, 1983.

VARIABLE HOUSING ALLOWANCE DURING FISCAL YEAR 1981; AMOUNT; REGULATIONS

Section 4(c) of Pub. L. 96-343 provided that during fiscal year 1981, a member of a uniformed service entitled to basic allowance for quarters under this section could be paid a variable housing allowance whenever assigned to duty in an area of the United States (other than Alaska and Hawaii) which was a high housing cost area with respect to such member, and a member with dependents who was assigned to an unaccompanied tour of duty outside the United States could be paid a variable housing allowance while serving such tour of duty for any period during which the member's dependents resided in an area of the United States which would qualify the member to receive a variable housing allowance if assigned to duty in that area.

PAY CONTINUATION

Amendment of this section by Pub. L. 92-129 not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note under section 203 of this title.

1962 INCREASE IN QUARTERS ALLOWANCE

Act Oct. 12, 1949, ch. 681, title III, §302(f), 63 Stat. 812, as amended by Pub. L. 87-531, §1, July 10, 1962, 76 Stat. 152, which had provided for increases in quarters allowances without amending subsec. (a) of this section through the device of effecting an amendment to section 302(f) of the Career Compensation Act of 1949, was repealed by section 75(5) of Pub. L. 89-718 except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966. The substance of these quarters allowance increases were incorporated into the text of this section through the amendment of subsec. (a) of this section by Pub. L. 89-718.

ENLISTED MEMBERS WITHOUT DEPENDENTS

Act Oct. 12, 1949, ch. 681, title III, 302(g), 63 Stat. 812, which provided that enlisted members without dependents shall be entitled to a basic allowance for quarters at the rate of \$51.30 per month, was repealed by Pub. L. 87-531, §2, July 10, 1962, 76 Stat. 152. Laws effective after Jan. 9, 1962, that are inconsistent with Pub. L. 87-649, to be considered as superseding Pub. L. 87-649 to the extent of the inconsistency, see section 12(a) of Pub. L. 87-649, set out as a note preceding section 101 of this title.

AUTHORITY OF SECRETARIES WITH RESPECT TO PAYMENT OF QUARTERS ALLOWANCES

Pub. L. 87-531, §5, July 10, 1962, 76 Stat. 153, provided that: "The Secretaries of the departments concerned shall have the same authority with respect to payments of quarters allowances to enlisted members of

the uniformed services to pay grades E-4 (over 4 years' service) through E-9 that they have with respect to enlisted members of the uniformed services in pay grades E-1, E-2, E-3, and E-4 (4 years' or less service) under sections 10 and 11 of the Dependents Assistance Act of 1950 (50 App. U.S.C. 2210, 2211)."

EXECUTIVE ORDER NO. 10204

Ex. Ord. No. 10204, Jan. 16, 1951, 16 F.R. 417, as amended by Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631; Ex. Ord. No. 11146, Mar. 13, 1964, 29 F.R. 3417, which related to regulations governing basic allowances for quarters, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406, 420, 1003, 1009 of this title; title 10 sections 708, 2830, 2882, 7573; title 14 section 686; title 32 section 107; title 50 App. section 454.

**[§ 403a. Repealed. Pub. L. 105-85, div. A, title VI, § 603(c)(1), Nov. 18, 1997, 111 Stat. 1781]**

Section, added Pub. L. 98-525, title VI, §602(d)(1), Oct. 19, 1984, 98 Stat. 2534; amended Pub. L. 99-145, title VI, §§602(a)-(d), 604(b), Nov. 8, 1985, 99 Stat. 636-638; Pub. L. 100-26, §8(e)(8), Apr. 21, 1987, 101 Stat. 286; Pub. L. 101-189, div. A, title VI, §602(a), Nov. 29, 1989, 103 Stat. 1445; Pub. L. 101-510, div. A, title VI, §602, Nov. 5, 1990, 104 Stat. 1575; Pub. L. 102-25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §§603, 604(b), 633, Dec. 5, 1991, 105 Stat. 1373, 1374, 1381; Pub. L. 103-160, div. A, title VI, §604, Nov. 30, 1993, 107 Stat. 1679; Pub. L. 104-106, div. A, title VI, §605(a)(1), (b), Feb. 10, 1996, 110 Stat. 358; Pub. L. 104-201, div. A, title VI, §§604(d), 606(a)-(d), Sept. 23, 1996, 110 Stat. 2541, 2542, related to variable housing allowances.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as an Effective Date of 1997 Amendment note under section 5561 of Title 5, Government Organization and Employees.

**§ 403b. Cost-of-living allowance in the continental United States**

(a) PAYMENT AUTHORIZED.—The Secretary concerned may pay a cost-of-living allowance to the eligible members of a uniformed service under the jurisdiction of the Secretary.

(b) ELIGIBLE MEMBERS.—The following members are eligible to receive a cost-of-living allowance under this section:

(1) A member assigned to a high cost area in the continental United States.

(2) A member assigned to an unaccompanied tour of duty outside the continental United States if the primary dependent of the member resides in a high cost area in the continental United States.

(3) A member assigned to duty in the continental United States if the Secretary of the uniformed service concerned determines that—

(A) the primary dependent of the member must reside in a high cost area in the continental United States by reason of the member's duty location or other circumstances; and

(B) it would be inequitable for the member's eligibility for the allowance to be determined on the basis of the duty location of the member.

(c) **HIGH COST AREA DEFINED.**—An area is a high cost area for a fiscal year for purposes of this section if the uniformed services cost of living for that area for the base period exceeds the average cost of living in the continental United States for such base period by at least the threshold percentage. The Secretary of Defense, in consultation with the other administering Secretaries, shall establish the threshold percentage, except that the threshold percentage may not be less than 8 percent. The administering Secretaries shall prescribe a higher threshold percentage to be applied for a fiscal year when it is necessary to do so in order to ensure that the total amount of the payments of the cost-of-living allowance made to members of the uniformed services under this section for such fiscal year does not exceed the total amount available to all uniformed services for that fiscal year for paying such allowance.

(d) **AMOUNT OF ALLOWANCE.**—The cost-of-living allowance that may be paid to a member for a high cost area for a fiscal year shall be the amount that is equal to the product of—

(1) the amount of the average spendable income determined applicable for the regular military compensation level of such member under subsection (g); and

(2) the percentage equal to the excess of—

(A) the percentage by which the uniformed services cost of living for the member's high cost area for the base period exceeds the average cost of living in the continental United States for such base period, over

(B) the threshold percentage applicable to such fiscal year under subsection (c).

(e) **LIMITATION TO ONE ALLOWANCE.**—If primary dependents of a member reside separately in different high cost areas—

(1) the member may be paid only one cost-of-living allowance under this section; and

(2) the cost-of-living allowance payable to the member shall be the highest of the amounts computed under this section for such high cost areas.

(f) **SERVICE NOT COVERED.**—(1) A cost-of-living allowance may not be paid a member under this section for the days authorized for travel of the member in connection with a permanent change of duty station.

(2) A member of a reserve component is not eligible for a cost-of-living allowance under this section unless the member is on active duty under a call or order to active duty that—

(A) specifies a period of 140 days or more; or

(B) states that the call or order to active duty is in support of a contingency operation.

(g) **AVERAGE SPENDABLE INCOME.**—The Secretary of Defense shall determine, using a methodology and assumptions that the Secretary considers appropriate, the amounts of average spendable income of members of the uniformed services for various ranges of regular military compensation. For purposes of this subsection,

spendable income is the total amount of regular military compensation that is available for purchase of goods and services after allocation of amounts for taxes, insurance, housing, gifts and contributions, and savings.

(h) **JOINT REGULATIONS.**—The Secretary of Defense and the other administering Secretaries shall jointly prescribe regulations to carry out this section.

(i) **OTHER DEFINITIONS.**—In this section:

(1) The term “primary dependent”, with respect to a member, means—

(A) the member's spouse; or

(B) in the case of an unmarried member, a dependent described in paragraph (2) or (4) of section 401(a) of this title.

(2) The term “cost of living” means a price index selected by the Secretary of Defense, in consultation with the other administering Secretaries, from among the following indices:

(A) The Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(B) Any other index developed in the private sector that the Secretary of Defense, in consultation with the other administering Secretaries, determines is comparable to the Consumer Price Index and is appropriate for use for purposes of this section.

(3) The term “uniformed services cost of living” means the price index selected as described in paragraph (2) and adjusted as the Secretary of Defense, in consultation with the other administering Secretaries, considers appropriate to reflect variations between expenses of members of the uniformed services (as offset by the basic allowance for subsistence) and the corresponding expenses of persons not members of the uniformed services with regard to the following:

(A) Nonhousing costs (including costs of transportation, goods, and services, taking into consideration savings attributable to use of such military facilities as commissary stores and exchange stores).

(B) Average income tax paid.

(C) Cost of health care.

(4) The term “base period”, with respect to a fiscal year, means the 12-month period ending on June 30 of the year in which such fiscal year begins.

(5) The term “administering Secretaries” means the following:

(A) The Secretary of Defense, with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy).

(B) The Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy.

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

(D) The Secretary of Health and Human Services, with respect to the Public Health Service.

(6) The term “continental United States” means the 48 contiguous States and the District of Columbia.

(Added Pub. L. 103-337, div. A, title VI, § 602(a)(1), Oct. 5, 1994, 108 Stat. 2779.)

CONDITIONS ON PROVISION OF ALLOWANCE

Section 602(b) of Pub. L. 103-337 provided that:

“(1) A cost-of-living allowance under section 403b of title 37, United States Code, as added by subsection (a), may not be provided until after the end of the 90-day period beginning on the date the Secretary of Defense submits the report required under paragraph (2).

“(2) Before implementing section 403b of title 37, United States Code, the Secretary of Defense, in consultation with the other administering Secretaries (as defined in subsection (h)(6) of such section), shall submit to Congress a report describing—

“(A) the methods by which the Secretary of Defense would determine the price index to be used under such section and the types of nonhousing related costs that will be considered under such price index;

“(B) the manner by which the Secretary will establish the threshold percentage for purposes of such section;

“(C) the manner in which savings attributable to use of such military facilities as commissary stores, exchange stores, and military medical treatment facilities will be taken into consideration; and

“(D) the methods by which the Secretary proposes to prevent uncontrolled growth in Government expenditures through the cost-of-living allowance available under such section.”

[Report submitted by Secretary of Defense on Mar. 31, 1995.]

**§ 404. Travel and transportation allowances: general**

(a) Except as provided in subsection (f) and under regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel performed or to be performed under orders, without regard to the comparative costs of the various modes of transportation—

(1) upon a change of permanent station, or otherwise, or when away from his designated post of duty regardless of the length of time he is away from that post;

(2) upon appointment, call to active duty, enlistment, or induction, from his home or from the place from which called or ordered to active duty to his first station;

(3) upon separation from the service, placement on the temporary disability retired list, release from active duty, or retirement, from his last duty station to his home or the place from which he was called or ordered to active duty, whether or not he is or will be a member of a uniformed service at the time the travel is or will be performed;

(4) when away from home to perform duty, including duty by a member of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, in his status as a member of the National Guard, for which he is entitled to, or has waived, pay under this title; and

(5) when not on active duty, if assigned to a Reserve school, and attending a reserve training meeting for the purpose of performing duties as an instructor at such meeting, if such meeting is 100 or more miles from the site at which the member would attend paid drills of the Reserve school to which he is assigned.

(b)(1) The Secretaries concerned may prescribe—

(A) the conditions under which travel and transportation allowances are authorized, including advance payments thereof; and

(B) the allowances for the kinds of travel, but not more than the amounts authorized in this section.

(2) In prescribing such conditions and allowances, the Secretaries concerned shall provide that a member who is performing travel under orders away from his designated post of duty and who is authorized a per diem under clause (2) of subsection (d) shall be paid for the meals portion of that per diem in a cash amount at a rate that is not less than the rate established under section 1011(a) of this title for meals sold to members. The preceding sentence shall not apply with respect to a member on field duty or sea duty (as defined in regulations prescribed under section 402(e)<sup>1</sup> of this title) or a member of a unit with respect to which the Secretary concerned has determined that unit messing is essential to the accomplishment of the unit's training and readiness.

(c)(1) Under uniform regulations prescribed by the Secretaries concerned and as provided in paragraph (2), a member who—

(A) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(B) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein or more than 90 days, is discharged with separation pay or severance pay or is involuntarily released from active duty with separation pay or readjustment pay; or

(C) is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on September 30, 2001,

may, not later than one year from the date he is so retired, placed on that list, involuntarily separated, discharged, or released, except as prescribed in regulations by the Secretaries concerned, select his home for the purposes of the travel and transportation allowances authorized by subsection (a).

(2) A member authorized under paragraph (1) to select a home for the purposes of such allowances may select as his home—

(A) any place within the United States;

(B) the place outside the United States from which the member was called or ordered to active duty to his first duty station; or

(C) any other place.

However, if the member selects as his home a place other than a place described in clause (A) or (B) of the preceding sentence, the travel and transportation allowances authorized by subsection (a) may not exceed the allowances which would be payable if the place selected as his home were in the United States (other than Hawaii or Alaska).

(d)(1) The travel and transportation allowances authorized for each kind of travel may not be more than one of the following:

(A) Transportation in kind, reimbursement therefor, or, under regulations prescribed by

<sup>1</sup> See References in Text note below.



the Secretaries concerned, when travel by privately owned conveyance is authorized or approved as more advantageous to the Government, a monetary allowance in place of the cost of transportation, at the rates provided in section 5704 of title 5.

(B) Transportation in kind, reimbursement therefor, or a monetary allowance as provided in subparagraph (A), plus a payment in lieu of subsistence as provided in paragraph (2) in an amount sufficient to meet normal and necessary expenses in the area to which travel is performed.

(C) A mileage allowance at a rate per mile prescribed by the Secretaries concerned and based on distances established under subparagraph (A).

(2) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) is entitled to any of the following:

(A) A per diem allowance at a rate not to exceed that established by the Secretaries concerned.

(B) Reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Secretaries concerned.

(C) A combination of payments described in subparagraphs (A) and (B).

(3) A per diem allowance or maximum amount of reimbursement established for purposes of paragraph (2) shall be established, to the extent feasible, by locality.

(4) For travel consuming less than a full day, the payment prescribed by regulation under paragraph (2) shall be allocated in such manner as the Secretaries concerned prescribe.

(e) A member who is on duty with, or is undergoing training for, the Air Mobility Command, the Marine Corps Transport Squadrons, the Fleet Tactical Support Squadrons, the Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons, and who is away from his permanent station, may be paid a per diem in lieu of subsistence in an amount not more than the amount to which he would be entitled if he were performing travel in connection with temporary duty without, in either case, the issuance of orders for specific travel.

(f)(1) The travel and transportation allowances authorized under this section for a member who is separated from the service or released from active duty may be paid or provided only for travel actually performed.

(2)(A) Except as provided in subparagraph (B), a member who is separated from the service or released from active duty and who—

(i) on the date of his separation from the service or release from active duty, has not served on active duty for a period of time equal to at least 90 percent of the period of time for which he initially enlisted or otherwise initially agreed to serve; or

(ii) is separated from the service or released from active duty under other than honorable

conditions, as determined by the Secretary concerned;

may be provided travel and transportation under this section only by transportation in kind by the least expensive mode of transportation available or by a monetary allowance that does not exceed the cost to the Government of such transportation in kind.

(B) Subparagraph (A) does not apply to a member—

(i) who is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(ii) who is separated from the service or released from active duty for a medical condition affecting the member, as determined by the Secretary concerned;

(iii) who is separated from the service or released from active duty because the period of time for which the member initially enlisted or otherwise initially agreed to serve has been reduced by the Secretary concerned and is separated or released under honorable conditions;

(iv) who is discharged under section 1173 of title 10; or

(v) who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on September 30, 2001.

(3) For purposes of entitlement to per diem in place of subsistence under subsection (d)(2), a member shall not be considered under subsection (a)(1) to be performing travel under orders away from his designated post of duty if such member—

(A) is an enlisted member serving his first tour of active duty;

(B) has not actually reported to a permanent duty station pursuant to orders directing such assignment; and

(C) is not actually traveling between stations pursuant to orders directing a change of station.

(g)(1) Subject to paragraph (2), a member of the armed forces accompanying a Member of Congress or a congressional employee on official travel may be authorized reimbursement for actual travel and transportation expenses incurred for such travel.

(2) The reimbursement authorized in paragraph (1) may be paid—

(A) at a rate that does not exceed the rate approved for official congressional travel; and

(B) only when the travel of the member is directed or approved by the Secretary of Defense or the Secretary concerned.

(3) In this subsection:

(A) The term “Member of Congress” means a member of the Senate or the House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

(B) The term “congressional employee” means an employee of a Member of Congress or an employee of Congress.

(h) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) is enti-

bled to reimbursement for parking fees, ferry fares, and bridge, road, and tunnel tolls actually incurred incident to such travel.

(i)(1) In the case of a member of a reserve component performing active duty for training or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a), the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty.

(2) Any payment or other benefit under this subsection shall be provided in accordance with regulations prescribed by the Secretaries concerned.

(3) The Secretary may pay service charge expenses under paragraph (1) out of funds appropriated for operation and maintenance for the reserve component concerned.

(j) In this section, the term “involuntarily separated” has the meaning given that term in section 1141 of title 10.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 472; Pub. L. 89-680, §1(1), Oct. 15, 1966, 80 Stat. 957; Pub. L. 89-718, §§55, 56, Nov. 2, 1966, 80 Stat. 1122, 1123; Pub. L. 90-168, §3, Dec. 1, 1967, 81 Stat. 525; Pub. L. 91-183, Dec. 30, 1969, 83 Stat. 840; Pub. L. 94-296, §1, May 29, 1976, 90 Stat. 584; Pub. L. 96-342, title VIII, §807(a), Sept. 8, 1980, 94 Stat. 1096; Pub. L. 96-343, §5(a), Sept. 8, 1980, 94 Stat. 1126; Pub. L. 97-60, title I, §121(a), Oct. 14, 1981, 95 Stat. 999; Pub. L. 98-94, title IX, §908(b), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98-525, title V, §533(g), title VI, §613(a), title XIV, §1402(c), Oct. 19, 1984, 98 Stat. 2528, 2539, 2621; Pub. L. 99-145, title VI, §612(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99-500, §101(c) [title IX, §9073], Oct. 18, 1986, 100 Stat. 1783-82, 1783-113, and Pub. L. 99-591, §101(c) [title IX, §9073], Oct. 30, 1986, 100 Stat. 3341-82, 3341-113; Pub. L. 99-661, div. A, title VI, §614(a), title XIII, §1343(b)(2), Nov. 14, 1986, 100 Stat. 3879, 3995; Pub. L. 100-26, §8(a), (d)(6), Apr. 21, 1987, 101 Stat. 284, 285; Pub. L. 100-180, div. A, title VI, §617(a), Dec. 4, 1987, 101 Stat. 1096; Pub. L. 101-189, div. A, title VI, §621(a), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 101-510, div. A, title V, §503(a), Nov. 5, 1990, 104 Stat. 1558; Pub. L. 102-25, title VII, §702(b)(1)-(3), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title VI, §624, Oct. 23, 1992, 106 Stat. 2423; Pub. L. 103-160, div. A, title V, §561(l)(1), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103-337, div. A, title VI, §§621, 622, Oct. 5, 1994, 108 Stat. 2784; Pub. L. 104-106, div. A, title VI, §621, Feb. 10, 1996, 110 Stat. 363; Pub. L. 104-201, div. A, title XII, §1252, Sept. 23, 1996, 110 Stat. 2698; Pub. L. 105-85, div. A, title VI, §602(b)(1), Nov. 18, 1997, 111 Stat. 1772; Pub. L. 105-261, div. A, title V, §561(f), Oct. 17, 1998, 112 Stat. 2025.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
404(a) .....	37:253(a) (1st and 3d sentences).	Oct. 12, 1949, ch. 681, §303(a), (d), 63 Stat. 813, 815; Mar. 31, 1955, ch. 20, §2(11), 69 Stat. 21; Aug. 11, 1955, ch. 806, §1, 69 Stat. 691;
404(b) .....	37:253(a) (4th sentence).	June 13, 1956, ch. 383, 70 Stat. 275; July 12, 1960, Pub. L. 86-638, §1, 74 Stat. 471.
404(c) .....	37:253(a) (2d sentence).	
404(d) .....	37:253(a) (last sentence, less proviso).	
404(e) .....	37:253(d).	
404(f) .....	37:253(a) (proviso of last sentence).	

In subsection (a), the words “that post” are substituted for the words “such designated posts of duty”. In clauses (2) and (3), the words “called or” are inserted to conform to the second phrase of clause (2). The word “competent” is omitted as surplusage.

In subsection (b), the words “The Secretaries concerned” are substituted for the words “The respective Secretaries concerned” to conform to other subsections of the source statute.

In subsection (c)(1), the words “under chapter 61 of title 10” are inserted for clarity. In clause (2), the words “under any other law” are substituted for the words “for any other reason”.

In subsection (d), the words “may not be more than one of the following” are substituted for the words “shall be limited to one of the following”. The words “or to be established” and “existing” are omitted, since this section, being permanent law, is consistently applicable in the present and does not speak only as of the date of its enactment. The words “of the Army” are substituted for the words “Department of the Army” after the words “Chief of Finance” to conform to section 3036(a)(5) of title 10. The words “under clause (1) of this subsection” are substituted for the words “pursuant to existing law”.

In subsection (e), the words “Fleet Logistic Air Wings” are substituted for the words “Fleet Logistics Support Unit” to reflect present terminology.

In subsection (f), the words “under this section” are substituted for the words “under conditions authorized herein”. The words “on the member’s” are inserted for clarity.

REFERENCES IN TEXT

Section 402 of this title, referred to in subsec. (b)(2), was amended generally by Pub. L. 105-85, div. A, title VI, §602(a), Nov. 18, 1997, 111 Stat. 1771, and was further amended by Pub. L. 105-261, div. A, title VI, §604(a), Oct. 17, 1998, 112 Stat. 2037, and, as so amended, subsec. (e) of section 402 no longer relates to regulations. Authority to prescribe regulations for the administration of section 402 is contained elsewhere in section 402.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Amendment of section by Pub. L. 99-500 and Pub. L. 99-591 is based on section 615(a) of S. 2638, Ninety-ninth Congress, as passed by the Senate on Aug. 9, 1986, which was enacted into permanent law by Pub. L. 99-500 and Pub. L. 99-591. S. 2638 was subsequently enacted as Pub. L. 99-661.

PRIOR PROVISIONS

Provisions similar to those in subsec. (g) of this section were contained in the following appropriations acts:

Oct. 12, 1984, Pub. L. 98-473, title I, §101(h) [title VIII, §8053], 98 Stat. 1904, 1933.

Dec. 8, 1983, Pub. L. 98-212, title VII, §761, 97 Stat. 1449.

Dec. 21, 1982, Pub. L. 97-377, title I, §101(c) [title VII, §767], 96 Stat. 1833, 1861.

Dec. 29, 1981, Pub. L. 97-114, title VII, §771, 95 Stat. 1590.

## AMENDMENTS

1998—Subsecs. (c)(1)(C), (f)(2)(B)(v). Pub. L. 105-261 substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

1997—Subsecs. (g) to (k). Pub. L. 105-85 redesignated subsecs. (h) to (k) as (g) to (j), respectively, and struck out former subsec. (g) which read as follows: “In the case of an enlisted member who is in a travel status and not entitled to receive per diem in lieu of subsistence for any day (or portion of a day) because the member is furnished meals in a Government mess, the member may not be paid a basic allowance for subsistence for such day (or portion of such day) that the member is furnished meals in a Government mess.”

1996—Subsec. (d)(1)(A). Pub. L. 104-106 struck out “, based on distances established over the shortest usually traveled route, under mileage tables prepared under the direction of the Secretary of Defense” after “section 5704 of title 5”.

Subsec. (j)(1). Pub. L. 104-201 substituted “active duty for training” for “annual training duty”.

1994—Subsec. (d)(1)(A). Pub. L. 103-337, § 621, substituted “Secretary of Defense” for “Secretary of the Army”.

Subsecs. (j), (k). Pub. L. 103-337, § 622, added subsec. (j) and redesignated former subsec. (j) as (k).

1993—Subsecs. (c)(1)(C), (f)(2)(B)(v). Pub. L. 103-160 substituted “nine-year period” for “five-year period”.

1992—Subsec. (e). Pub. L. 102-484 substituted “Air Mobility Command” for “Military Airlift Command” and “the Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons,” for “or the Naval Aircraft Ferrying Squadrons.”

1991—Pub. L. 102-25 struck out “of this section”, “of this subsection”, and “of this paragraph” wherever appearing in subsecs. (a) to (d) and (f).

1990—Subsec. (c)(1). Pub. L. 101-510, § 503(a)(1), added subpar. (C) and inserted “involuntarily separated,” after “placed on that list,” in concluding provisions.

Subsec. (f)(2)(B)(v). Pub. L. 101-510, § 503(a)(2), added cl. (v).

Subsec. (j). Pub. L. 101-510, § 503(a)(3), added subsec. (j).

1989—Subsec. (i). Pub. L. 101-189 added subsec. (i).

1987—Subsec. (d). Pub. L. 100-26, § 8(a), terminated amendments by Pub. L. 99-500 and Pub. L. 99-591. See Termination of Amendments by Public Laws 99-500 and 99-591 note below.

Subsec. (d)(1)(A). Pub. L. 100-26, § 8(d)(6), substituted “privately owned” for “privately-owned”.

Subsec. (h). Pub. L. 100-180 added subsec. (h).

1986—Subsec. (d). Pub. L. 99-500 and Pub. L. 99-591 substituted “Subject to paragraph (2), transportation” for “Transportation” in par. (1)(B) and “subparagraph (A) of this paragraph” for “clause (1) of this subsection” in par. (1)(C) and added pars. (2), (4), and (5), and redesignated former par. (2) as (3) and substituted “Except as provided in paragraph (4) of this subsection and under” for “Under”. See Termination of Amendments by Public Laws 99-500 and 99-591 note below.

Subsec. (d)(1)(B). Pub. L. 99-661, § 614(a)(1), (2), substituted “payment in lieu of subsistence as provided in paragraph (2) of this subsection in an amount sufficient” for “per diem in place of subsistence in an amount not more than \$50 determined by the Secretaries concerned to be sufficient” and struck out “to be” after “travel is”.

Subsec. (d)(1)(C). Pub. L. 99-661, § 1343(b)(2), substituted “subparagraph (A) of this paragraph” for “clause (1) of this subsection”.

Subsec. (d)(2) to (4). Pub. L. 99-661, § 614(a)(3), added pars. (2) to (4) and struck out former par. (2) which read as follows: “Under regulations prescribed by the Secretaries concerned, when either travel is to an area designated as a high cost area in those regulations or the

per diem of paragraph (1)(B) of this subsection is less than the amount of the actual and necessary expenses required by the unusual circumstances of the travel assignment, reimbursement may be authorized for actual and necessary expenses, but not for more than \$75 for each day in a travel status.”

1985—Subsec. (d). Pub. L. 99-145 substituted par. (1) for first sentence, designated second sentence as par. (2), and in par. (2) substituted “paragraph (1)(B)” for “clause (2)”. Prior to amendment, first sentence read as follows: “The travel and transportation allowances authorized for each kind of travel may not be more than one of the following—

“(1) transportation in kind, reimbursement therefor, or a monetary allowance in place of the cost of transportation at a rate per mile prescribed by the Secretaries concerned and based on distances established, over the shortest usually traveled route, under mileage tables prepared under the direction of the Secretary of the Army;

“(2) transportation in kind, reimbursement therefor, or a monetary allowance as provided by clause (1) of this subsection plus a per diem in place of subsistence in an amount sufficient to meet actual and necessary expenses, but in no event more than \$50 a day; or

“(3) a mileage allowance at a rate per mile prescribed by the Secretaries concerned and based on distances established under clause (1) of this subsection.”

1984—Subsec. (a)(5). Pub. L. 98-525, § 613(a), added par. (5).

Subsec. (c)(1)(B). Pub. L. 98-525, § 533(g), inserted “separation pay or” before “severance pay” and before “readjustment pay”.

Subsec. (g). Pub. L. 98-525, § 1402(c), added subsec. (g).

1983—Subsec. (f)(3). Pub. L. 98-94 added par. (3).

1981—Subsec. (a). Pub. L. 97-60, § 121(a)(1), substituted “Except as provided in subsection (f) of this section and under regulations” for “Under regulations”.

Subsec. (b). Pub. L. 97-60, § 121(a)(2), designated existing provisions as par. (1), redesignated existing pars. (1) and (2) as subpars. (A) and (B) of the newly designated par. (1), and added par. (2).

Subsec. (c). Pub. L. 97-60, § 121(a)(3), designated existing provisions as par. (1) and existing pars. (1) and (2) as subpars. (A) and (B) of the newly designated par. (1), inserted “and as provided in paragraph (2) of this subsection” after “Secretaries concerned” in provisions preceding newly designated subpar. (A), and added par. (2).

Subsec. (f). Pub. L. 97-60, § 121(a)(4), designated existing provisions as par. (1), substituted “for a member who is separated from the service or released from active duty may be paid or provided only for travel actually performed” for “may be paid on the member’s separation from the service or release from active duty, whether or not he performs the travel involved” in par. (1) as so designated, and added par. (2).

1980—Subsec. (d). Pub. L. 96-343, § 5(a), substituted in par. (1) “per mile prescribed by the Secretaries concerned and” for “that is not more than 7 cents a mile”, and in par. (3) “at a rate per mile prescribed by the Secretaries concerned and” for “of not more than 10 cents a mile”.

Pub. L. 96-342 substituted in par. (2) “\$50” for “\$35” and in provision following par. (3) “\$75” for “\$50”.

1976—Subsec. (d). Pub. L. 94-296 in cl. (2) substituted “in an amount sufficient to meet actual and necessary expenses, but in no event more than \$35 a day” for “of not more than \$25 a day”, and in text following cl. (3) inserted provisions relating to travel designated as travel to a high cost area by the prescribed regulations and increased the maximum reimbursement from \$40 to \$50.

1969—Pub. L. 91-183 increased from \$16 to \$25, the maximum per diem allowance, and from \$30 to \$40, the maximum per diem allowance in unusual circumstances.

1967—Subsec. (a)(4). Pub. L. 90-168 added cl. (4).

1966—Subsec. (c). Pub. L. 89-680 inserted into the authorization for selection of a home for the purposes of the travel and transportation allowances authorized by subsection (a) of this section provisions requiring selection not later than one year from the date of retirement, placement, discharge, or release, except as provided in regulations to be prescribed by the Secretaries concerned.

Subsec. (d). Pub. L. 89-718, §55, struck out reference to the Chief of Finance of the Army in cl. (1), substituted “subsection” for “section” and “\$16” for “\$12” in cl. (2), substituted “subsection” for “section” in cl. (3), and inserted provision authorizing reimbursement on an actual expenses basis where, due to unusual circumstances of a travel assignment, per diem reimbursement is not enough, but placing a limit of \$30 for each day in a travel status.

Subsec. (e). Pub. L. 89-718, §56, substituted “Military Airlift Command” for “Military Air Transport Service”.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 602(g) of Pub. L. 105-85, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 621(b) of Pub. L. 101-189 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to travel and transportation commenced after the date of the enactment of this Act [Nov. 29, 1989].”

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-180 applicable with respect to travel performed after Dec. 4, 1987, see section 617(c) of Pub. L. 100-180, set out as an Effective Date note under section 1591 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1986 AMENDMENTS

Section 612(b)(1) of Pub. L. 100-180 provided that: “The amendments made by section 614(a) of the National Defense Authorization Act for Fiscal Year 1987 [section 614(a) of Pub. L. 99-661, which amended this section] shall be implemented by the Secretaries concerned (as defined in section 101(5) of title 37, United States Code) not later than 90 days after the date of the enactment of this Act [Dec. 4, 1987] and shall apply with respect to travel performed on or after the date of implementation.”

Section 614(b) of Pub. L. 99-661, which provided that amendments made by section 614(a) of Pub. L. 99-661 shall become effective on such date as the President makes a certification regarding savings to the United States by such amendments, was repealed by Pub. L. 100-180, div. A, title VI, §612(a), Dec. 4, 1987, 101 Stat. 1093.

#### EFFECTIVE DATE OF 1985 AMENDMENT

Section 612(c) of Pub. L. 99-145 provided that: “The amendments made by this section [amending this section and section 406 of this title] shall apply to travel performed after September 30, 1985.”

#### EFFECTIVE DATE OF 1984 AMENDMENT

Section 613(b) of Pub. L. 98-525 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to travel performed after September 30, 1984.”

Amendment by section 1402(c) of Pub. L. 98-525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as a note under section 520b of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Section 121(d) of Pub. L. 97-60 provided that:

“(1) Except as provided in paragraphs (2), (3), (4), and (5), the amendments made by this section [amending this section and sections 405a and 406 of this title] shall take effect on November 1, 1981, and shall apply to members who are separated from the service or released from active duty on or after November 1, 1981.

“(2) Paragraph (2) of section 404(b) of title 37, United States Code, as added by subsection (a)(2)(C), shall apply to travel performed after October 31, 1981.

“(3) Paragraph (3) of section 406(a) of title 37, United States Code, as added by subsection (b)(1)(C), shall take effect on the date of the enactment of this Act [Oct. 14, 1981].

“(4) The amendments made by subsections (a)(3) and (b)(3) [amending this section and section 406 of this title] shall take effect on November 1, 1981, and shall apply to members who are retired, placed on the temporary disability retired list, discharged, or involuntarily released on or after November 1, 1981, except that such amendments shall not apply to any member who before November 1, 1981, had completed eighteen years of active service.

“(5) The amendment made by subsection (b)(2)(C) [amending section 406 of this title] shall take effect on the date of the enactment of this Act [Oct. 14, 1981].”

#### EFFECTIVE DATE OF 1980 AMENDMENTS

Section 5(c) of Pub. L. 96-343 provided that: “The amendments made by this section [amending this section and section 411 of this title] shall be effective with respect to travel and transportation performed after August 31, 1980.”

Section 807(b) of Pub. L. 96-342 provided that: “The amendments made by subsection (a) [amending this section] shall only apply to travel and transportation expenses incurred after September 30, 1980.”

#### EFFECTIVE DATE OF 1976 AMENDMENT

Section 2 of Pub. L. 94-296 provided that: “The amendments made by this Act [amending this section] become effective on the first day of the first calendar month following the date of enactment [May 29, 1976].”

#### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-168 effective on first day of first calendar month following Dec. 1, 1967, see section 7 of Pub. L. 90-168, set out as a note under section 138 of Title 10, Armed Forces.

#### TERMINATION OF AMENDMENTS BY PUBLIC LAWS 99-500 AND 99-591

Section 8(a) of Pub. L. 100-26, as amended by Pub. L. 100-180, div. A, title VI, §612(b)(2), Dec. 4, 1987, 101 Stat. 1093, provided that: “The amendments made to section 404(d) of title 37, United States Code, by section 614(a) of the Defense Authorization Act [section 614(a) of Pub. L. 99-661] shall be executed as if that portion of section 9073 of the Defense Appropriations Act [section 101(c) [title IX, §9073] of Pub. L. 99-500 and Pub. L. 99-591, enacting S.2638, §615, which amended subsec. (d) of this section and enacted a provision set out as a note under this section] which is before the proviso had not been enacted. Such portion of section 9073 which is before the proviso shall not be in effect after the date of the enactment of this Act [Apr. 21, 1987], and the reference to ‘this section’ in such proviso shall be deemed to refer to section 614 of the Defense Authorization Act.”

#### TRANSMISSION OF CERTIFICATION OF TRAVEL AND TRANSPORTATION ALLOWANCES TO CONGRESS WITH RESPECT TO FISCAL YEAR 1987

Section 615(b) of S. 2638, as passed by the Senate on Aug. 9, 1986, and as enacted into law by section 101(c) [title IX, §9073] of Pub. L. 99-500 and Pub. L. 99-591, related to transmission to Congress by Secretary of Defense of certification of costs of travel and transportation allowances for fiscal year 1987. See Termination

of Amendments by Public Laws 99-500 and 99-591 note above.

#### INCREASE IN RATE PER MILE FOR MILEAGE ALLOWANCE

Pub. L. 98-473, title I, §101(h) [title VIII, §8113], Oct. 12, 1984, 98 Stat. 1904, 1944, provided that: "The Secretaries concerned (as defined in section 101(5) of title 37, United States Code), under uniform regulations prescribed by them and to the extent that funds are available within the permanent change of station travel account, may increase the rate per mile for mileage allowance under section 404(d)(2) of title 37, United States Code, to 15 cents per mile."

#### 1962 INCREASE IN PER DIEM RATES; REIMBURSEMENT FOR ACTUAL EXPENSES INCIDENT TO TRAVEL

The increase from \$12 to \$16 in the per diem allowance and the provision for reimbursement for actual expenses incident to travel up to \$30 per day provided in the amendment of subsec. (d) of this section by Pub. L. 89-718 had already been put into effect by Pub. L. 87-500, §§1, 2, June 27, 1962, 76 Stat. 111, which although not amending subsec. (d) of this section, had raised the per diem allowance and provided for the reimbursement for actual expenses up to \$30 per day through the device of effecting an amendment to section 303(a) of the Career Compensation Act of 1949, act Oct. 12, 1949, ch. 681, title III, 63 Stat. 813. Pub. L. 89-500 was repealed by section 75(3) of Pub. L. 89-718, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966.

#### CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Regulations for administration of section, see section 411 of this title.

Travel and transportation allowances for reserves and members of National Guard who perform training or other duty without pay, see section 1002 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 404a, 406, 406a, 406b, 406c, 408, 410, 411, 411a, 411b, 411e, 420, 433, 1002, 1003 of this title; title 5 section 4109; title 10 sections 1174a, 1175, 2013.

#### § 404a. Travel and transportation allowances: temporary lodging expenses

(a) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service who is ordered to make a change of permanent station—

(1) from any duty station to a duty station in the United States (other than Hawaii or Alaska); or

(2) from a duty station in the United States (other than Hawaii or Alaska) to a duty station outside the United States or in Hawaii or Alaska;

shall be paid or reimbursed for subsistence expenses actually incurred by the member and the member's dependents while occupying temporary quarters incident to that change of permanent station. In the case of a change of permanent station described in clause (1), the period for which such expenses are to be paid or reimbursed may not exceed 10 days. In the case of a change of permanent station described in clause (2), the period for which such expenses are to be paid or reimbursed may not exceed five days and such payment or reimbursement may

be provided only for expenses incurred before leaving the United States (other than Hawaii or Alaska).

(b) Regulations prescribed under subsection (a) shall prescribe average daily subsistence rates for purposes of this section for the member and for each dependent. Such rates may not exceed the maximum per diem rates prescribed under section 404(d) of this title for the area where the temporary quarters are located.

(c) A member may not be paid or reimbursed more than \$110 a day under this section.

(Added Pub. L. 97-60, title I, §122(a)(1), Oct. 14, 1981, 95 Stat. 1002; amended Pub. L. 99-145, title VI, §613(a), Nov. 8, 1985, 99 Stat. 640; Pub. L. 102-25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title VI, §621, Oct. 23, 1992, 106 Stat. 2422; Pub. L. 103-160, div. A, title VI, §621(a), (b), Nov. 30, 1993, 107 Stat. 1682.)

#### AMENDMENTS

1993—Subsec. (a). Pub. L. 103-160, §621(a), substituted "10 days" for "four days" in second sentence and "five days" for "two days" in third sentence.

Subsec. (d). Pub. L. 103-160, §621(b), struck out subsec. (d) which read as follows: "In the case of a member who is ordered to make a change of permanent station described in subsection (a)(1) during fiscal years 1993 through 1997, the Secretary concerned may extend the period for which subsistence expenses incurred incident to that change are paid or reimbursed to not more than 10 days if the new duty station is in a geographical area where there is a shortage of safe and affordable housing because of the arrival of members of the armed forces in the area as part of the withdrawal of members of the armed forces from duty stations outside the United States, the closure or realignment of military installations, or the restructuring or deactivation of military units. The existence of such a shortage of safe and affordable housing in an area shall be determined by the Secretary concerned."

1992—Subsec. (d). Pub. L. 102-484 added subsec. (d).

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

Subsec. (b). Pub. L. 102-25, §702(b)(1), struck out "of this section" after "subsection (a)".

1985—Subsec. (a). Pub. L. 99-145 substituted "shall" for "may" in first sentence, and substituted "are to" for "may" the first place it appears in second and third sentences.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 621(c) of Pub. L. 103-160 provided that: "The amendments made by this section [amending this section] shall take effect on April 1, 1994."

#### EFFECTIVE DATE OF 1985 AMENDMENT

Section 613(b) of Pub. L. 99-145 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1985."

#### EFFECTIVE DATE

Section 122(c) of Pub. L. 97-60 provided that: "The amendments made by this section [enacting this section and amending section 411 of this title] shall take effect on April 1, 1982."

#### PROHIBITION ON PAYMENT OF TEMPORARY LODGING EXPENSES; EXCEPTION

Pub. L. 99-500, §101(c) [title IX, §9097], Oct. 18, 1986, 100 Stat. 1783-82, 1783-117, and Pub. L. 99-591, §101(c) [title IX, §9097], Oct. 30, 1986, 100 Stat. 3341-82, 3341-117, provided that: "None of the funds appropriated by this

Act shall be available to pay temporary lodging expenses pursuant to section 404a(a) of title 37, United States Code: *Provided*, That during fiscal year 1987, this provision shall not apply to those military personnel with dependents in grades E-4 and below.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 411, 420 of this title.

**§ 405. Travel and transportation allowances: per diem while on duty outside the United States or in Hawaii or Alaska**

(a) Without regard to the monetary limitations of this title, the Secretaries concerned may authorize the payment of a per diem, considering all elements of the cost of living to members of the uniformed services under their jurisdiction and their dependents, including the cost of quarters, subsistence, and other necessary incidental expenses, to such a member who is on duty outside of the United States or in Hawaii or Alaska, whether or not he is in a travel status. However, dependents may not be considered in determining the per diem allowance for a member in a travel status.

(b) Housing cost and allowance may be disregarded in prescribing a station cost of living allowance under this section.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 473; Pub. L. 89-718, § 57, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 91-486, Oct. 22, 1970, 84 Stat. 1085; Pub. L. 96-107, title VIII, § 807(a), Nov. 9, 1979, 93 Stat. 813; Pub. L. 98-525, title VI, § 602(e), Oct. 19, 1984, 98 Stat. 2536; Pub. L. 99-145, title XIII, § 1303(b)(8), Nov. 8, 1985, 99 Stat. 741; Pub. L. 101-189, div. A, title VI, § 622(a), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 103-160, div. A, title VI, § 622(a), Nov. 30, 1993, 107 Stat. 1683; Pub. L. 105-85, div. A, title VI, § 603(c)(2), Nov. 18, 1997, 111 Stat. 1781; Pub. L. 105-261, div. A, title VI, § 603(b), Oct. 17, 1998, 112 Stat. 2037.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
405 .....	37:253(b).	Oct. 12, 1949, ch. 681, § 303(b), 63 Stat. 814.

The words “Secretaries concerned” are substituted for the words “Secretaries of the uniformed services” to conform to other subsections of the source statute. The words “outside the United States, or in Hawaii or Alaska” are substituted for the words “outside the continental United States or in Alaska” to conform to the definition of United States in section 101(1) of this revised title and to retain the coverage of the source statute.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-261 struck out subsec. (c) which authorized the Secretary concerned to make a lump-sum payment for nonrecurring expenses to certain members of the uniformed services authorized to receive per diem allowances under subsec. (a).

1997—Subsecs. (b) to (d). Pub. L. 105-85 redesignated subsec. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: “A station housing allowance may be prescribed under this section for a member who is on duty outside of the United States without regard to costs other than housing costs and may consist of the difference between basic allowance for quarters and applicable housing

cost. A station housing allowance may not be prescribed under this section for a member who is on duty in Hawaii or Alaska. A station housing allowance prescribed under this section may be paid in advance.”

1993—Subsec. (d). Pub. L. 103-160 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In the case of a member of the uniformed services authorized to receive a per diem allowance under subsection (a), the Secretary concerned may make a lump-sum payment for nonrecurring expenses incurred by the member in occupying private housing outside of the United States. Expenses for which payments are made under this subsection may not be considered for purposes of determining the per diem allowance of the member under subsection (a).”

1989—Subsec. (d). Pub. L. 101-189 added subsec. (d). 1985—Pub. L. 99-145 inserted “the” after “outside” in section catchline.

1984—Subsec. (a). Pub. L. 98-525, § 602(e)(1), designated first two sentences of existing section as subsec. (a).

Subsec. (b). Pub. L. 98-525, § 602(e)(2), (3), designated third and fourth sentences of existing section as subsec. (b), in such third sentence as so designated inserted “for a member who is on duty outside of the United States” after “under this section”, and inserted after such third sentence: “A station housing allowance may not be prescribed under this section for a member who is on duty in Hawaii or Alaska.”

Subsec. (c). Pub. L. 98-525, § 602(e)(4), designated last sentence of existing section as subsec. (c).

1979—Pub. L. 96-107 inserted provisions relating to advance payment of station housing allowances.

1970—Pub. L. 91-486 inserted provision authorizing a station housing allowance.

1966—Pub. L. 89-718 substituted “the” for “a” after “including”.

EFFECTIVE DATE OF 1997 AMENDMENT

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

EFFECTIVE DATE OF 1993 AMENDMENT

Section 622(b) of Pub. L. 103-160 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to nonrecurring expenses and currency fluctuation gains described in section 405(d) [now 405(c)] of title 37, United States Code, that are incurred by members of the uniformed services on or after October 1, 1993.”

EFFECTIVE DATE OF 1989 AMENDMENT

Section 622(b) of Pub. L. 101-189 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to expenses incurred after August 31, 1990.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-525 effective Jan. 1, 1985, with exceptions, see section 602(f) of Pub. L. 98-525, as amended, set out as a note under section 403 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 807(b) of Pub. L. 96-107 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1979.”

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Regulations for administration of section, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406, 411, 420, 1003 of this title; title 2 section 906; title 5 section 4109; title 10 section 2013; title 36 section 2101.

**§ 405a. Travel and transportation allowances: departure allowances**

(a) Under regulations prescribed by the Secretaries concerned, when dependents of members of the uniformed services are authorized or ordered to depart by competent authority, they may be authorized such allowances as the Secretary concerned determines necessary to offset the expenses incident to the departure. Allowances authorized by this section are in addition to those authorized by any other section of this title. Such allowances may be paid in advance. For the purposes of this section, a dependent “authorized or ordered to depart by competent authority” includes—

(1) a dependent who is present at or in the vicinity of the member’s duty station when the departure of dependents is authorized or ordered by competent authority and who actually moved to an authorized safe haven designated by that authority, whether such safe haven is at or in the vicinity of the member’s duty station or elsewhere;

(2) a dependent who resides at or in the vicinity of a former duty station of the member following the assignment of the member elsewhere or who resides at or in the vicinity of a duty station (other than the duty station of the member) incident to orders in connection with an unaccompanied tour of duty of the member, if a departure of dependents is authorized or ordered by competent authority from the duty station at which or in the vicinity of which the dependent resides and the dependent actually moves to an authorized safe haven designated by that authority;

(3) a dependent who established a household at or in the vicinity of the member’s duty station but who is temporarily absent therefrom for any reason when departure of dependents is authorized or ordered by competent authority; and

(4) a dependent who was authorized to join the member and who departed from his former place of residence incident to joining the member but who, as a result of the departure of dependents, is diverted to a safe haven designated by competent authority or is authorized to travel to a place the dependent may designate, even though he was in the United States when the departure was authorized or ordered.

(b)(1) Under regulations prescribed by the Secretaries concerned, each member whose dependents are covered by subsection (a) is entitled to have one motor vehicle that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents, transported at the expense of the United States to a designated place for the use of the dependents. When the dependents are permitted to rejoin the member, the vehicle may be transported at the expense of the United States to his permanent duty station.

(2) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under paragraph (1) does not arrive at the authorized destination of the vehicle by the designated deliv-

ery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the dependent’s use. The amount reimbursed may not exceed \$30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first).

(Added Pub. L. 89–26, §1(1), May 22, 1965, 79 Stat. 116; amended Pub. L. 89–608, §2, Sept. 30, 1966, 80 Stat. 851; Pub. L. 96–465, title II, §2303(e), Oct. 17, 1980, 94 Stat. 2165; Pub. L. 97–60, title I, §§121(c), 123, Oct. 14, 1981, 95 Stat. 1002, 1003; Pub. L. 99–661, div. A, title XIII, §1343(b)(3), Nov. 14, 1986, 100 Stat. 3995; Pub. L. 102–25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title VI, §625(b)(1), Oct. 23, 1992, 106 Stat. 2424; Pub. L. 104–106, div. A, title VI, §622(a), Feb. 10, 1996, 110 Stat. 363; Pub. L. 105–261, div. A, title VI, §653(c), Oct. 17, 1998, 112 Stat. 2052.)

## AMENDMENTS

1998—Subsec. (b). Pub. L. 105–261 designated existing provisions as par. (1) and added par. (2).

1996—Subsec. (a). Pub. L. 104–106 substituted “authorized or ordered” for “ordered” wherever appearing.

1992—Subsec. (a)(2) to (4). Pub. L. 102–484 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

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

1986—Pub. L. 99–661 substituted “departure” for “evacuation” in section catchline.

1981—Subsec. (a). Pub. L. 97–60, §123, inserted provision authorizing the payment of allowances in advance.

Subsec. (b). Pub. L. 97–60, §121(c), substituted “that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents” for “owned by him and for his personal use, or the use of the dependents.”

1980—Subsec. (a). Pub. L. 96–465 substituted “to depart” and “departure” for “evacuated” and “evacuation”, respectively, wherever appearing.

1966—Subsec. (a). Pub. L. 89–608 struck out provision requiring that to qualify for allowances the evacuated dependents have been evacuated from places outside the United States to places inside the United States.

## EFFECTIVE DATE OF 1998 AMENDMENT

For provisions relating to the applicability of amendment by Pub. L. 105–261, see section 653(e) of Pub. L. 105–261, set out as a note under section 2634 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 1996 AMENDMENT

Section 622(b) of Pub. L. 104–106 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to persons authorized or ordered to depart as described in section 405a(a) of title 37, United States Code, on or after October 1, 1995.”

## EFFECTIVE DATE OF 1992 AMENDMENT

Section 625(b)(2) of Pub. L. 102–484 provided that: “The amendments made by paragraph (1) [amending this section] shall take effect as of August 23, 1992, and shall apply with respect to any evacuation ordered by competent military authority on or after that date.”

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–60 effective Nov. 1, 1981, to apply to members who are separated from the service or released from active duty on or after Nov. 1, 1981, see section 121(d) of Pub. L. 97–60, set out as a note under section 404 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section 2 of Pub. L. 89-26, as amended by Pub. L. 89-608, §1, Sept. 30, 1966, 80 Stat. 851; Pub. L. 92-176, Dec. 2, 1971, 85 Stat. 494, provided that: "This Act [enacting this section and amending sections 407, 411, and 1006 of this title] becomes effective on February 1, 1965."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 407, 411, 420, 1003, 1006 of this title.

§ 406. Travel and transportation allowances: dependents; baggage and household effects

(a)(1) Except as provided in paragraph (2), a member of a uniformed service who is ordered to make a change of permanent station is entitled to transportation in kind, reimbursement therefor, or a monetary allowance in place of the cost of transportation, plus a per diem, for the member's dependents at rates prescribed by the Secretaries concerned, but not more than the rate authorized under section 404(d) of this title.

(2)(A) Except as provided in subparagraph (B), a member who—

(i) is separated from the service or released from active duty; and

(ii) on the date of his separation from the service or release from active duty, has not served on active duty for a period of time equal to at least 90 percent of the period of time for which he initially enlisted or otherwise initially agreed to serve,

may be provided transportation under this subsection for his dependents only by transportation in kind by the least expensive mode of transportation available or by a monetary allowance that does not exceed the cost to the Government of such transportation in kind.

(B) Subparagraph (A) does not apply to a member—

(i) who is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(ii) who is separated from the service or released from active duty for a medical condition affecting the member, as determined by the Secretary concerned;

(iii) who is separated from the service or released from active duty because the period of time for which the member initially enlisted or otherwise initially agreed to serve has been reduced by the Secretary concerned and is separated or released under honorable conditions;

(iv) who is discharged under section 1173 of title 10; or

(v) who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on September 30, 2001.

(3) The allowances authorized under this subsection may be paid in advance.

(4) In this section, the term "involuntarily separated" has the meaning given that term in section 1141 of title 10.

(b)(1)(A) Except as provided in paragraph (2), in connection with a change of temporary or

permanent station, a member is entitled to transportation (including packing, crating, drayage, temporary storage, and unpacking) of baggage and household effects within the weight allowances listed in subparagraph (C), without regard to the comparative costs of the various modes of transportation. Temporary storage in excess of 180 days may be authorized. Alternatively, the member may be paid reimbursement or a monetary allowance under subparagraph (F).

(B) Subject to uniform regulations prescribed by the Secretaries concerned, in the case of a permanent change of station in which the Secretary concerned has authorized transportation of a motor vehicle under section 2634 of title 10 (except when such transportation is authorized from the old duty station to the new duty station), the member is entitled to a monetary allowance for transportation of that motor vehicle—

(i) from the old duty station to—

(I) the customary port of embarkation which is nearest the old duty station if delivery of the motor vehicle to the port of embarkation is not made in conjunction with the member's travel to the member's port of embarkation; or

(II) the customary port of embarkation which is nearest to the member's port of embarkation if delivery of the motor vehicle to the port of embarkation is made in conjunction with the member's travel to the member's port of embarkation;

whichever is most cost-effective for the Government considering all operational, travel, and transportation requirements incident to such change of station; and

(ii) from the customary port of debarkation which has been designated by the Government as most cost-effective for the Government considering all operational, travel, and transportation requirements incident to such change of station to the new duty station.

Such monetary allowance shall be established at a rate per mile that does not exceed the rate established under section 404(d)(1) of this title. If clause (i)(I) applies to the transportation by the member of a motor vehicle from the old duty station, the monetary allowance under this subparagraph shall also cover return travel to the old duty station by the member or other person transporting the vehicle. In the case of transportation described in clause (ii), the monetary allowance shall also cover travel from the new duty station to the port of debarkation to pick up the vehicle.

(C) Under regulations prescribed by the Secretary of Defense, the weight allowance in pounds to which a member is entitled under subparagraph (A) is determined in accordance with the following table:

Pay Grade	Without Dependents	With Dependents
O-10 to O-6	18,000	18,000
O-5	16,000	17,500
O-4	14,000	17,000
O-3	13,000	14,500
O-2	12,500	13,500



Pay Grade	Without Dependents	With Dependents
O-1 .....	10,000	12,000
W-5 .....	16,000	17,500
W-4 .....	14,000	17,000
W-3 .....	13,000	14,500
W-2 .....	12,500	13,500
W-1 .....	10,000	12,000
E-9 .....	12,000	14,500
E-8 .....	11,000	13,500
E-7 .....	10,500	12,500
E-6 .....	8,000	11,000
E-5 .....	7,000	9,000
E-4 <sup>1</sup> .....	7,000	8,000
E-4 <sup>2</sup> .....	3,500	7,000
E-3 .....	2,000	5,000
E-2 .....	1,500	5,000
E-1 .....	1,500	5,000

<sup>1</sup>Member with more than two years of service computed under section 205 of this title.

<sup>2</sup>Member with less than two years of service computed under section 205 of this title.

(D) In connection with the change of temporary or permanent station of a member in a pay grade below pay grade O-6, the Secretary concerned may authorize a higher weight allowance than the weight allowance determined under subparagraph (C) for the member if the Secretary concerned determines that the application of the weight allowance determined under such subparagraph would result in significant hardship to the member or the dependents of the member. An increase in weight allowance under this subparagraph may not result in a weight allowance exceeding the weight allowance specified in subparagraph (C) for pay grades O-6 to O-10, unless the additional weight allowance in excess of such maximum is intended to permit the shipping of consumables that cannot be reasonably obtained at the new station of the member. The Secretary of Defense shall prescribe regulations to carry out this subparagraph.

(E) Under regulations prescribed by the Secretary of Defense, or the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy, cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with temporary or permanent station change, to transportation of baggage and household effects as provided in subparagraph (A). The weight allowance for cadets and midshipmen is 350 pounds.

(F) A member entitled to transportation of baggage and household effects under subparagraph (A) may, as an alternative to the provision of transportation, be paid reimbursement or, at the member's request, a monetary allowance in advance for the cost of transportation of the baggage and household effects. The monetary allowance may be paid only if the amount of the allowance does not exceed the cost that would be incurred by the Government under subparagraph (A) for the transportation of the baggage and household effects. Appropriations available to the Department of Defense, the Department of Transportation, and the Department of Health and Human Services for providing transportation of baggage or household ef-

fects of members of the uniformed services shall be available to pay a reimbursement or monetary allowance under this subparagraph. The Secretary concerned may prescribe the manner in which the risk of liability for damage, destruction, or loss of baggage or household effects arranged, packed, crated, or loaded by a member is allocated among the member, the United States, and any contractor when a reimbursement or monetary allowance is elected under this subparagraph.

(2) The transportation and allowances authorized under paragraph (1) may be paid or provided to a member upon his separation from the service or release from active duty only if the member applies for the transportation and allowances not later than 180 days after the date of his separation or release from active duty. If a member to whom this paragraph applies has been authorized nontemporary storage under subsection (d), the 180-day period shall not begin until such authorization for nontemporary storage expires. This paragraph does not apply to a member to whom subsection (g)(1) applies.

(c) The allowances and transportation authorized by subsections (a) and (b) are in addition to those authorized by sections 403(c), 404, and 405 of this title and are—

- (1) subject to such conditions and limitations;
- (2) for such grades, ranks, and ratings; and
- (3) to and from such places;

prescribed by the Secretaries concerned. Transportation of the household effects of a member may not be made by commercial air carrier at an estimated over-all cost that is more than the estimated over-all cost of the transportation thereof by other means, unless an appropriate transportation officer has certified in writing to his commanding officer that those household effects to be so transported are necessary for use in carrying out assigned duties, or are necessary to prevent undue hardship and other means of transportation will not fill those needs. However, not more than 1,000 pounds of unaccompanied baggage may be transported by commercial air carrier, without regard to the preceding sentence, under regulations prescribed under the authority of the Secretary of Defense.

(d) The nontemporary storage of baggage and household effects may be authorized in facilities of the United States, or in commercial facilities when it is considered to be more economical to the United States. However, the weight of baggage and household effects stored, plus the weight of the baggage and household effects transported, in connection with a change of station may not be more than the maximum weight limitations in regulations prescribed by the Secretaries concerned when it is not otherwise fixed by law. In the event a member's baggage and household effects exceed such maximum weight limitation, the Secretary concerned, if requested to do so by the member, may pay the costs for the nontemporary storage of that excess weight and collect the amount paid from the member's pay and allowances, or collect the amount in such other manner as the Secretary concerned determines appropriate. The non-

temporary storage of baggage and household effects may not be authorized for a period longer than one year from the date the member concerned is separated from the service, retired, placed on the temporary disability retired list, discharged, or released from active duty, except as prescribed in regulations by the Secretaries concerned for a member who, on that date, or at any time during the one-year period following that date, is confined in a hospital, or is in its vicinity, undergoing medical treatment; or in the case of a member who—

(1) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10; or

(2) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than 90 days, is discharged with separation pay or severance pay or is involuntarily released from active duty with separation pay or readjustment pay.

Except in the case of a member who, on the date of his separation, discharge, or release, or at any time during the one-year period following that date, is confined in a hospital, or is in its vicinity, undergoing medical treatment, the cost of the storage, for the period that exceeds one year, shall be paid by the member.

(e) When orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of his dependents, baggage, and household effects, the Secretaries concerned may authorize the movement of the dependents, baggage, and household effects and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof (as the case may be), plus a per diem, as authorized under subsection (a) or (b). This subsection may be used only under unusual or emergency circumstances, including those in which—

(1) the member is performing duty at a place designated by the Secretary concerned as being within a zone from which dependents should be evacuated;

(2) orders which direct the member's travel in connection with temporary duty do not provide for return to the permanent station or do not specify or imply any limit to the period of absence from his permanent station; or

(3) the member is serving on permanent duty at a station outside the United States, in Hawaii or Alaska, or on sea duty.

(f) Under regulations prescribed by the Secretary concerned, transportation for dependents, baggage, and household effects of a member, plus a per diem for the member's dependents, is authorized if he dies while entitled to basic pay under chapter 3 of this title.

(g)(1) Under uniform regulations prescribed by the Secretaries concerned, a member who—

(A) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(B) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break

therein of more than 90 days, is discharged with separation pay or severance pay or is involuntarily released from active duty with separation pay or readjustment pay; or

(C) is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on September 30, 2001,

is, not later than one year from the date he is so retired, placed on that list, involuntarily separated, discharged, or released, except as prescribed in regulations by the Secretaries concerned, entitled to transportation for his dependents, baggage, and household effects to the home selected under section 404(c) of this title, and to a per diem for his dependents. In addition, baggage and household effects may be shipped to a location other than the home selected by the member.

(2) If baggage and household effects of a member are shipped to a place selected by a member as his home under section 404(c) of this title that is not a place described in clause (A) or (B) of section 404(c)(2) of this title or to a location other than the home selected by the member, or if transportation is provided for a member's dependents to a place selected by the member as his home under section 404(c) of this title that is not a place described in clause (A) or (B) of section 404(c)(2) of this title, and the costs of that shipment or transportation are in excess of those that would have been incurred if the shipment had been made or the transportation had been provided to a location in the United States (other than Alaska or Hawaii), the member shall pay that excess cost.

(3) If a member authorized to select a home under section 404(c) of this title accrues that right or any entitlement under this subsection but dies before he exercises it, that right or entitlement accrues to and may be exercised by his surviving dependents or, if there are no surviving dependents, his baggage and household effects may be shipped to the home of the person legally entitled to such baggage and effects. However, if baggage and household effects are shipped under circumstances described in paragraph (2) in which the member would have been required to pay the excess costs of that shipment, the surviving dependents or the person legally entitled to the baggage and household effects, as the case may be, shall pay that excess cost.

(h)(1) If the Secretary concerned determines that it is in the best interests of a member described in paragraph (2) or the member's dependents and the United States, the Secretary may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of the member's dependents, baggage, and household effects—

(A) authorize the movement of the member's dependents, baggage, and household effects at the station to an appropriate location in the United States or its possessions or, if the dependents are foreign nationals, to the country of the dependents' origin and prescribe transportation in kind, reimbursement therefor, or

a monetary allowance in place thereof, as the case may be, plus a per diem, as authorized under subsection (a) or (b); and

(B) in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle, which is owned or leased by the member (or a dependent of the member) and is for the personal use of a dependent of the member, to that location by means of transportation authorized under section 2634 of title 10 or authorize the storage of the motor vehicle pursuant to subsection (b) of such section.

If the member's baggage and household effects are in nontemporary storage under subsection (d), the Secretary concerned may authorize their movement to the location concerned and prescribe transportation in kind or reimbursement therefor, as authorized under subsection (b). For the purposes of this section, a member's unmarried child for whom the member received transportation in kind to his station outside the United States or in Hawaii or Alaska, reimbursement therefor, or a monetary allowance in place thereof and who, by reason of age or graduation from (or cessation of enrollment in) an institution of higher education, would otherwise cease to be a dependent of the member while the member was serving at that station shall still be considered as a dependent of the member.

(2) A member referred to in paragraph (1) is a member who—

(A) is serving at a station outside the United States or in Hawaii or Alaska;

(B) receives an administrative discharge under other than honorable conditions; or

(C) is sentenced by a court-martial—

(i) to be confined for a period of more than 30 days,

(ii) to receive a dishonorable or bad-conduct discharge, or

(iii) to be dismissed from a uniformed service.

(3) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this subsection does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the dependent's use. The amount reimbursed may not exceed \$30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first).

(i) A member traveling under orders who is relieved from a duty station is entitled to transportation for his dependents, baggage, and household effects, plus a per diem for the member's dependents, regardless of the time the dependents, baggage, or household effects arrive at their destination. Appropriations of the Department of Defense available for travel or transportation that are current when the member is relieved may be used to pay for the transportation.

(j) Under uniform regulations prescribed by the Secretaries concerned, a member with de-

pendents who is ordered to make an overseas permanent change of station and who, in anticipation of his dependents accompanying him overseas, ships baggage and household effects to that overseas station, may be authorized a return shipment of the baggage and household effects if, after the shipment, the member's dependents are unable to accompany him overseas and the Secretary concerned determines that such inability was unexpected and uncontrollable.

(k) For the purposes of this section, the residence of a dependent of a member who is a student not living with the member while at school shall be considered to be the permanent duty station of the member or the designated residence of dependents of the member if the member's dependents are not authorized to reside with the member.

(l) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of baggage and household goods being transported under this section.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 473; Pub. L. 88-431, §1(a), Aug. 14, 1964, 78 Stat. 439; Pub. L. 89-101, §2, July 30, 1965, 79 Stat. 425; Pub. L. 89-680, §1(2), (3), Oct. 15, 1966, 80 Stat. 957; Pub. L. 89-718, §§58, 59, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-623, §3(6), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96-107, title VIII, §814, Nov. 9, 1979, 93 Stat. 817; Pub. L. 96-513, title V, §506(7), Dec. 12, 1980, 94 Stat. 2919; Pub. L. 97-60, title I, §121(b), Oct. 14, 1981, 95 Stat. 1000; Pub. L. 97-86, title IV, §404, Dec. 1, 1981, 95 Stat. 1105; Pub. L. 97-258, §2(i)(1), Sept. 13, 1982, 96 Stat. 1061; Pub. L. 97-295, §3(4), Oct. 12, 1982, 96 Stat. 1303; Pub. L. 98-94, title IX, §909, Sept. 24, 1983, 97 Stat. 638; Pub. L. 99-145, title VI, §§612(b), 614(a), 617(a), title XIII, §1303(b)(9), Nov. 8, 1985, 99 Stat. 639-641, 741; Pub. L. 99-433, title VI, §602(f)(2), Oct. 1, 1986, 100 Stat. 1070; Pub. L. 99-661, div. A, title VI, §§617(a), 620(a), (b)(1), 652(a), (b), Nov. 14, 1986, 100 Stat. 3880, 3882, 3888; Pub. L. 100-180, div. A, title VI, §616(b), Dec. 4, 1987, 101 Stat. 1096; Pub. L. 100-456, div. A, title VI, §602(a), Sept. 29, 1988, 102 Stat. 1976; Pub. L. 101-189, div. A, title VI, §623(a), (b), Nov. 29, 1989, 103 Stat. 1447; Pub. L. 101-510, div. A, title V, §503(b), title VI, §§621, 622(a), title XIV, §1484(i)(9), Nov. 5, 1990, 104 Stat. 1558, 1580, 1718; Pub. L. 102-25, title VII, §702(b)(1)-(3), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title XI, §1111(d)(4), Dec. 5, 1991, 105 Stat. 1492; Pub. L. 102-241, §12, Dec. 19, 1991, 105 Stat. 2213; Pub. L. 102-484, div. A, title VI, §622(a), title X, §1054(a)(4), Oct. 23, 1992, 106 Stat. 2422, 2502; Pub. L. 103-160, div. A, title V, §561(l)(1), title XI, §1182(d)(1), Nov. 30, 1993, 107 Stat. 1668, 1773; Pub. L. 104-106, div. A, title VI, §§623, 642(a)(1), title XV, §§1502(b), 1505(d), Feb. 10, 1996, 110 Stat. 363, 368, 506, 514; Pub. L. 104-201, div. A, title III, §368(b), title VI, §§621(a), 624, Sept. 23, 1996, 110 Stat. 2498, 2548; Pub. L. 105-85, div. A, title VI, §§603(d)(1)(B), 631, Nov. 18, 1997, 111 Stat. 1782, 1795; Pub. L. 105-261, div. A, title V, §561(f), title VI, §§631(a), (b)(1), 632, 653(b), Oct. 17, 1998, 112 Stat. 2025, 2043, 2044, 2051.)

HISTORICAL AND REVISION NOTES  
1962 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
406(a) .....	37:253(c) (1st sentence, less 1st 33 words, and less last 59 words).	Oct. 12, 1949, ch. 681, §303(c), (1st through 3d, 9th, 11th, 13th through 16th and last, sentences), 63 Stat. 814;
406(b) .....	37:253(c) (last 59 words of 1st sentence).	Mar. 31, 1955, ch. 20, §2(12), (13), 69 Stat. 21, 22; Aug. 5, 1955, ch. 571, 69 Stat. 532; Aug. 11, 1955, ch. 806, §2, 69 Stat. 691; July 12, 1960, Pub. L. 86-637, §1(a), 74 Stat. 471; July 12, 1960, Pub. L. 86-638, §2, 74 Stat. 471; Aug. 17, 1961, Pub. L. 87-140, 75 Stat. 341.
406(c) .....	37:253(c) (1st 33 words of 1st sentence and 2d sentence).	
406(d) .....	37:253(c) (3d sentence).	
406(e) .....	37:253(c) (9th sentence).	
406(f) .....	37:253(c) (11th sentence).	
406(g) .....	37:253(c) (13th through 16th, and last, sentences).	

In subsection (b), the words “to and from such locations” are omitted as covered by subsection (c)(3).

In subsection (c), the 15 words preceding clause (1) of the first sentence are substituted for the 1st 7 words of the 1st sentence of section 253(c) of existing title 37. The 39th through 47th words of the 2d sentence of section 253(c) of existing title 37 are omitted as covered by section 411(a) of this revised title.

In subsection (d), the words “the weight of the baggage and household effects stored . . . may not be more than” are substituted for the words “in no instance shall the weight stored . . . exceed”. The words “except as prescribed in regulations” are substituted for the words “except that a longer period may be authorized by regulations promulgated”. The words “Secretaries concerned” are substituted for the words “respective Secretaries” to conform to other subsections of the source statute.

In subsection (f), the words “of a member” are inserted for clarity. The words “if he dies” are substituted for the words “upon the death of a member”. The words “under chapter 3 of this title” are substituted for the reference to section 232(e) of title 37, since subsection (e) was redesignated as subsection (d) by section 2(2) of the Act of March 31, 1955, cited above.

In subsection (g), the words “under chapter 61 of title 10” are inserted for clarity. The words “under any other law” are substituted for the words “for any other reason”. The words “In addition,” are substituted for the word “Such”, and the words “the member” are substituted for the word “him”, for clarity. The words “section 404(c) of this title” are substituted for the words “subsection (a) of this section” to reflect the section of this revised title which restates that subsection.

1982 ACTS

Revised section	Source (U.S. Code)	Source (Statutes at Large)
406(j) .....	31:650a.	Aug. 1, 1953, ch. 305, §604, 67 Stat. 349.

The text of 31:650a (related to a member of an armed force) is omitted as unnecessary because of 37:404(a)(3). The words “On and after August 1, 1953” are omitted as executed. The words “A member . . . is entitled to” are substituted for “personnel” for clarity and consistency in the title. The word “baggage” is added for consistency in the title. The words “dependents, baggage, or household effects” are substituted for “such personnel” for clarity. The word “otherwise” is omitted as surplus. The words “used to pay for that transportation” are substituted for “charged with all expenses in connection with such travel including” for clarity.

Revised section	Source (U.S. Code)	Source (Statutes at Large)
406(k) .....	37:406 (note).	Feb. 9, 1976, Pub. L. 94-212, §747, 90 Stat. 176.

The words “to carry out subsection (b) of this section” are substituted for “for providing transportation of household effects of members of the armed forces pursuant to section 406(b) of title 37, United States Code” to eliminate unnecessary words.

PRIOR PROVISIONS

Act Aug. 1, 1953, cited as the source of subsec. (j) of this section in the Historical and Revision Notes above, is known as the Department of Defense Appropriation Act, 1954. Similar provisions were contained in the following prior appropriation acts:

- July 10, 1952, ch. 630, title VI, §605, 66 Stat. 531.
- Oct. 18, 1951, ch. 512, title VI, §605, 65 Stat. 423.
- Sept. 6, 1950, ch. 896, ch. X, title VI, §605, 64 Stat. 752.
- Oct. 29, 1949, ch. 787, title VI, §605, 63 Stat. 1017.
- June 24, 1948, ch. 632, 62 Stat. 652.
- July 30, 1947, ch. 357, title I, 61 Stat. 554.
- July 16, 1946, ch. 583, 60 Stat. 545.
- July 3, 1945, ch. 265, 59 Stat. 388.
- June 28, 1944, ch. 303, 58 Stat. 577.
- July 1, 1943, ch. 185, 57 Stat. 351.
- July 2, 1942, ch. 477, 56 Stat. 614.
- June 30, 1941, ch. 262, 55 Stat. 371.
- June 13, 1940, ch. 343, 54 Stat. 356.
- Apr. 26, 1939, ch. 88, 53 Stat. 598.
- June 11, 1938, ch. 347, 52 Stat. 647.
- July 1, 1937, ch. 423, 50 Stat. 448.

AMENDMENTS

1998—Subsec. (a)(2)(B)(v). Pub. L. 105-261, §561(f), substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

Subsec. (b)(1)(A). Pub. L. 105-261, §631(a)(1), struck out “, or reimbursement therefor,” after “household effects” and inserted at end “Alternatively, the member may be paid reimbursement or a monetary allowance under subparagraph (F).”

Subsec. (b)(1)(D). Pub. L. 105-261, §632, inserted before period at end of second sentence “, unless the additional weight allowance in excess of such maximum is intended to permit the shipping of consumables that cannot be reasonably obtained at the new station of the member”.

Subsec. (b)(1)(F). Pub. L. 105-261, §631(a)(2), added subpar. (F).

Subsec. (g)(1)(C). Pub. L. 105-261, §561(f), substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

Subsec. (h)(3). Pub. L. 105-261, §653(b), added par. (3).

Subsecs. (j) to (m). Pub. L. 105-261, §631(b)(1), redesignated subsecs. (k) to (m) as (j) to (l), respectively, and struck out former subsec. (j) which authorized the Secretary concerned to pay monetary allowance to member of armed forces or of Commissioned Corps of the Public Health Service who participates in a program in which member's baggage and household effects are transported by privately owned or rental vehicle or in which member provides labor in connection with transportation of baggage and household effects.

1997—Subsec. (c). Pub. L. 105-85, §603(d)(1)(B), substituted “sections 403(c), 404, and 405” for “sections 404 and 405” in introductory provisions.

Subsec. (h)(2)(C). Pub. L. 105-85, §631, substituted a period for a comma at end of cl. (iii) and struck out concluding provisions which read as follows: “if the sentence is approved under section 860(c)(2) of title 10.”

1996—Subsec. (b)(1)(B). Pub. L. 104-201, §621(a), inserted at end “If clause (i)(I) applies to the transportation by the member of a motor vehicle from the old duty station, the monetary allowance under this subparagraph shall also cover return travel to the old duty station by the member or other person transporting the vehicle. In the case of transportation described in clause (ii), the monetary allowance shall also cover travel from the new duty station to the port of debarkation to pick up the vehicle.”

Subsec. (b)(1)(E). Pub. L. 104-106, §1505(d), struck out “of this paragraph” after “as provided in subparagraph (A)”.

Subsec. (h)(1). Pub. L. 104-106, §623, in concluding provisions, substituted “who, by reason of age or graduation from (or cessation of enrollment in) an institution of higher education, would otherwise cease to be a dependent of the member” for “who became 21 years of age” and inserted “still” before “be considered as a dependent of the member.”

Subsec. (h)(1)(B). Pub. L. 104-201, §368(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle that is owned or leased by the member (or a dependent of the member) and is for his dependents’ personal use to that location by means of transportation authorized under section 2634 of title 10.”

Subsec. (i). Pub. L. 104-106, §642(a)(1), redesignated subsec. (j) as (i) and struck out former subsec. (i) which read as follows: “The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report at the end of each fiscal year fiscal year stating—

“(1) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were authorized by the Secretary concerned to receive allowances or transportation for dependents under subsection (a) or (h); and

“(2) the number of dependents who during the preceding fiscal year were accompanying members of the Army, Navy, Air Force, and Marine Corps who were stationed outside the United States and were not authorized to receive such allowances or transportation.”

Pub. L. 104-106, §1502(b), substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives” in introductory provisions. Amendment executed before amendment by section 642(a)(1) of Pub. L. 104-106, see above, pursuant to section 1506 of Pub. L. 104-106, set out as a note under section 101 of Title 10, Armed Forces.

Subsec. (j). Pub. L. 104-106, §642(a)(1), redesignated subsec. (k) as (j). Former subsec. (j) redesignated (i).

Subsec. (j)(1). Pub. L. 104-201, §624(1), substituted “The Secretary concerned may pay a monetary allowance to a member of the armed forces or a member of the Commissioned Corps of the Public Health Service” for “Appropriations available to the Department of Defense for providing transportation of household effects of members of the armed forces under subsection (b) are available to pay a monetary allowance to a member” and “Secretary concerned” for “Secretary of the military department concerned”.

Subsec. (j)(3). Pub. L. 104-201, §624(2), added par. (3).

Subsecs. (k) to (n). Pub. L. 104-106, §642(a)(1), redesignated subsecs. (l) to (n) as (k) to (m), respectively. Former subsec. (k) redesignated (j).

1993—Subsec. (a)(2)(B)(v). Pub. L. 103-160, §561(i)(1), substituted “nine-year period” for “five-year period”.

Subsec. (b)(1)(E). Pub. L. 103-160, §1182(d)(1), made technical amendment to directory language of Pub. L. 102-241. See 1991 Amendment note below.

Subsec. (g)(1)(C). Pub. L. 103-160, §561(i)(1), substituted “nine-year period” for “five-year period”.

1992—Subsec. (g)(1)(A). Pub. L. 102-484, §1054(a)(4), inserted a semicolon after “title 10”.

Subsec. (n). Pub. L. 102-484, §622(a), added subsec. (n). 1991—Subsec. (a)(1). Pub. L. 102-25, §702(b)(2), struck out “of this subsection” after “paragraph (2)”.

Subsec. (a)(2)(A). Pub. L. 102-25, §702(b)(3), struck out “of this paragraph” after “subparagraph (B)”.

Subsec. (a)(2)(B). Pub. L. 102-25, §702(b)(3), struck out “of this paragraph” after “Subparagraph (A)”.

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

Subsec. (b)(1)(C). Pub. L. 102-190, §1111(d)(4), in table, inserted provisions relating to pay grade W-5.

Subsec. (b)(1)(E). Pub. L. 102-241, as amended by Pub. L. 103-160, §1182(d)(1), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: “Under regulations prescribed by the Secretary of Defense, cadets at the United States Military Academy and the United States Air Force Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with a change of temporary or permanent station, to transportation of baggage and household effects as provided in subparagraph (A). The weight allowance for such cadets and midshipmen shall be 350 pounds.”

Pub. L. 102-25, §702(b)(3), struck out “of this paragraph” after “subparagraph (A)”.

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

Subsec. (c). Pub. L. 102-25, §702(b)(1), struck out “of this section” after “subsections (a) and (b)”.

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

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

Subsec. (h)(1). Pub. L. 102-25, §702(b)(1), struck out “of this section” after “subsection (d)” and “subsection (b)”.

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

Subsec. (k)(1). Pub. L. 102-25, §702(b)(1), struck out “of this section” after “subsection (b)” in two places.

1990—Subsec. (a)(2)(B)(v). Pub. L. 101-510, §503(b)(1), added cl. (v).

Subsec. (a)(4). Pub. L. 101-510, §503(b)(3), added par. (4).

Subsec. (b)(1)(C). Pub. L. 101-510, §1484(i)(9), inserted a period at end of footnote 2.

Subsec. (b)(1)(E). Pub. L. 101-510, §622(a), added subpar. (E).

Subsec. (g)(1). Pub. L. 101-510, §503(b)(2), added subpar. (C) and inserted “involuntarily separated,” after “placed on that list,” in concluding provisions.

Subsec. (k). Pub. L. 101-510, §621, revived amendment by Pub. L. 99-145, §614(a). See 1985 Amendment note below.

1989—Subsec. (b)(1)(C). Pub. L. 101-189, §623(b), inserted “in pounds” after “weight allowance” in provisions preceding table.

Subsec. (b)(1)(D). Pub. L. 101-189, §623(a), added subpar. (D).

1988—Subsec. (b)(1)(A). Pub. L. 100-456, §602(a)(1), substituted “within the weight allowances listed in subparagraph (C)” for “within such weight allowances prescribed by the Secretaries concerned”.

Subsec. (b)(1)(C). Pub. L. 100-456, §602(a)(2), added subpar. (C).

1987—Subsec. (h)(1)(B). Pub. L. 100-180 inserted “or leased” after “owned”.

1986—Subsec. (a)(2)(A). Pub. L. 99-661, §652(a), amended subpar. (A) generally, inserting cl. (i) designation, redesignating former cl. (i) as cl. (ii), and striking out former cl. (ii) which read as follows: “is separated from the service or released from active duty under other than honorable conditions, as determined by the Secretary concerned”.

Subsec. (d). Pub. L. 99-661, §620(a), inserted “In the event a member’s baggage and household effects exceed such maximum weight limitation, the Secretary concerned, if requested to do so by the member, may pay the costs for the nontemporary storage of that excess weight and collect the amount paid from the member’s pay and allowances, or collect the amount in such other manner as the Secretary concerned determines appropriate.”

Subsec. (e). Pub. L. 99-661, §617(a)(1), substituted “(as the case may be), plus a per diem” for “, as the case may be” in introductory provisions.

Subsec. (f). Pub. L. 99-661, §617(a)(2), inserted “, plus a per diem for the member’s dependents,” after “member”.

Subsec. (g)(1). Pub. L. 99-661, §617(a)(3), inserted “, and to a per diem for his dependents” after “404(c) of this title” in concluding provisions.

Subsec. (h). Pub. L. 99-661, §652(b), designated existing provisions as par. (1), amended first sentence generally, and added par. (2). Prior to amendment, first sentence read as follows: “In the case of a member who is serving at a station outside the United States or in Hawaii or Alaska, if the Secretary concerned determines it to be in the best interests of the member or his dependents and the United States, he may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of his dependents, baggage, and household effects—

“(1) authorize the movement of the member’s dependents, baggage, and household effects at that station to an appropriate location in the United States or its possessions and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, as authorized under subsection (a) or (b) of this section; and

“(2) authorize the transportation of one motor vehicle that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents to that location by means of transportation authorized under section 2634 of title 10.”

Subsec. (i). Pub. L. 99-433 struck out “quarter” after “fiscal year” in provisions preceding par. (1) and substituted “fiscal year” for “quarter” in pars. (1) and (2).

Subsec. (j). Pub. L. 99-661, §617(a)(4), inserted “plus a per diem for the member’s dependents,” after “household effects”.

Subsecs. (l), (m). Pub. L. 99-661, §620(b)(1), added subsec. (l) and redesignated former subsec. (l) as (m).

1985—Subsec. (a)(1). Pub. L. 99-145, §612(b), substituted “, reimbursement therefor, or a monetary allowance in place of the cost of transportation, plus a per diem, for the member’s dependents at rates prescribed by the Secretaries concerned” for “for his dependents, to reimbursement therefor, or to a monetary allowance in place of that transportation in kind at a rate to be prescribed”.

Subsec. (k). Pub. L. 99-145, §1303(b)(9), substituted “for providing transportation of household effects of members of the armed forces under subsection (b)” for “to carry out subsection (b)”.

Pub. L. 99-145, §614, which designated existing provisions as par. (1), inserted “or in which a member provides all or a part of the labor in connection with the transportation of the baggage and household effects of the member (including packing, crating, and loading)”, and added par. (2), expired Sept. 30, 1989, pursuant to section 614(b) of Pub. L. 99-145, set out as an Effective and Termination Dates of 1985 Amendment note below. Section 614(b) of Pub. L. 99-145 was repealed and the amendment made by section 614(a) of Pub. L. 99-145 was revived effective Oct. 1, 1989, by Pub. L. 101-510, §621, set out as a Revival of Expired Amendment note below.

Subsec. (l). Pub. L. 99-145, §617(a), added subsec. (l).

1983—Subsec. (b)(1). Pub. L. 98-94 designated existing provisions as subpar. (A), struck out provisions relating to a monetary allowance for transportation of a motor vehicle on change of permanent station, and added subpar. (B) relating to a monetary allowance for transportation of a motor vehicle on permanent change of station.

1982—Subsec. (j). Pub. L. 97-258 added subsec. (j).

Subsec. (k). Pub. L. 97-295 added subsec. (k).

1981—Subsec. (a). Pub. L. 97-60, §121(b)(1), designated existing provisions as par. (1), inserted “paragraph (2) of this subsection and” before “subsection (i) of this section”, and added pars. (2) and (3).

Subsec. (a)(1). Pub. L. 97-86, §404(1), struck out “and subsection (i) of this section” after “Except as provided in paragraph (2) of this subsection”.

Subsec. (b). Pub. L. 97-60, §121(b)(2), designated existing provisions as par. (1), substituted “Except as provided in paragraph (2) of this subsection, in” for “In”, inserted provision relating to temporary storage in excess of 180 days and to monetary allowances in the case of the transportation of motor vehicles in cases in which transportation is authorized under section 2634 of title 10, and added par. (2).

Subsec. (g). Pub. L. 97-60, §121(b)(3), designated existing provisions as par. (1) and existing pars. (1) and (2) as subpars. (A) and (B) thereof, struck out provisions following par. (1)(B), that, in any case in which the costs were in excess of those which would have been incurred if shipment had been made to his selected home, the member paid that excess cost, that if a member authorized to select a home under section 404(c) of this title accrued that right or any entitlement under this subsection but died before he exercised it, that right or entitlement accrued to and could be exercised by his surviving dependents, or his baggage and household effects could be shipped to the home of the person legally entitled thereto if there were no surviving dependents, and that, in any case in which the costs were in excess of those which would have been incurred if shipment had been made to the member’s selected home, the surviving dependents or the person legally entitled to the baggage and household effects, as the case may be, paid that excess cost, and added pars. (2) and (3).

Subsec. (h). Pub. L. 97-86, §404(2), substituted “In the case of a member” for “Except as provided in subsection (i) of this section, in the case of a member”.

Subsec. (h)(2). Pub. L. 97-60, §121(b)(4), substituted “that is owned by the member (or a dependent of the member) and is for the personal use of the member or his dependents” for “owned by the member and for his or his dependents’ personal use”.

Subsec. (i). Pub. L. 97-86, §404(3), substituted provisions requiring the Secretary, at the end of each fiscal year quarter, to submit to the Committees on Armed Services of the Senate and House of Representatives a report covering the number of dependents overseas receiving allowances or transportation for dependents under subsec. (a) or (h) of this section and the number of dependents overseas not authorized to receive such allowances or transportation for provisions that formerly had placed a numerical limit on the number of dependents overseas receiving allowances and transportation.

1980—Subsecs. (d)(2), (g)(2). Pub. L. 96-513 inserted references to separation pay in two places in subsec. (d)(2) and in two places in subsec. (g)(2).

1979—Subsec. (a). Pub. L. 96-107, §814(1), inserted provisions excepting subsec. (i) of this section from provisions of this subsection.

Subsec. (h). Pub. L. 96-107, §814(2), inserted provisions excepting subsec. (i) of this section from provisions of this subsection.

Subsec. (i). Pub. L. 96-107, §814(3), added subsec. (i).

1968—Subsec. (d)(2). Pub. L. 90-623 substituted “90” for “ninety”.

1966—Subsec. (b). Pub. L. 89-718, §58(1), substituted “change of temporary or permanent station” for “temporary or permanent change of station”.

Subsec. (d). Pub. L. 89-680, §1(2), extended authority permitting a one-year period for nontemporary storage of baggage and household effects under regulations for members being separated from the service who are confined to a hospital or are in its vicinity undergoing medical treatment to include members who are being retired, placed on the temporary retired disability list, discharged, or released from active duty, and expanded coverage to include members retired or placed on the temporary disability retired list under chapter 61 of title 10, members retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than ninety days, discharged with severance pay or released involuntarily from active duty with readjustment pay, and inserted provisions for payment of

cost of storage by the member concerned in certain cases.

Subsec. (g). Pub. L. 89-718, §§58(2), 59, inserted "is" before "placed" in cl. (1) and substituted "member's" for "members".

Pub. L. 89-680, §1(3), inserted, in authorization for transportation for dependents, baggage, and household effects to the home selected under section 404(c) of this title, provisions limiting the entitlement to not later than one year from the date of retirement, placement on the list, discharge, or release, except as prescribed in regulations by the Secretaries concerned.

1965—Subsec. (h)(2). Pub. L. 89-101 substituted "by means of transportation authorized under section 2634 of title 10" for "on a vessel owned, leased, or chartered by the United States or by privately owned American shipping services".

1964—Subsec. (h). Pub. L. 88-431 added subsec. (h).

#### EFFECTIVE DATE OF 1998 AMENDMENT

For provisions relating to the applicability of amendment by section 653(b) of Pub. L. 105-261, see section 653(e) of Pub. L. 105-261, set out as a note under section 2634 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1997 AMENDMENT

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

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 368(b) of Pub. L. 104-201 effective Apr. 1, 1997, see section 368(c) of Pub. L. 104-201, set out as a note under section 2634 of Title 10, Armed Forces.

Section 621(b) of Pub. L. 104-201 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1997."

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 1182(d)(1) of Pub. L. 103-160 provided in part that the amendment made by that section is effective as of Dec. 19, 1991.

#### EFFECTIVE DATE OF 1991 AMENDMENT

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

#### EFFECTIVE DATE OF 1990 AMENDMENT

Section 622(b) of Pub. L. 101-510 provided that: "The amendment made by subsection (a) [amending this section] shall be applicable to baggage and household effects transported on or after the date of the enactment of this Act [Nov. 5, 1990]."

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 623(c) of Pub. L. 101-189 provided that: "The authority provided in subparagraph (D) [37 U.S.C. 406(b)(1)(D)], as added by subsection (a), shall apply with respect to the transportation of baggage and household effects occurring after June 30, 1989."

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 602(b) of Pub. L. 100-456 provided that: "The weight allowances in section 406(b)(1)(C) of title 37, United States Code (as added by subsection (a)), shall apply with respect to transportation of baggage and household effects occurring after June 30, 1989."

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 617(b) of Pub. L. 99-661 provided that: "The amendments made by subsection (a) [amending this section] shall apply to travel performed after the date of the enactment of this Act [Nov. 14, 1986]."

Section 620(c) of Pub. L. 99-661 provided that:

"(1) The amendment made by subsection (a) [amending this section] shall apply to members whose baggage and household goods enter nontemporary storage on or after the date of the enactment of this Act [Nov. 14, 1986].

"(2) The amendments made by subsection (b) [amending this section and section 2634 of Title 10, Armed Forces] shall apply only with respect to members whose dependents are unable to accompany them to an overseas permanent duty station because of circumstances arising on or after the date of the enactment of this Act [Nov. 14, 1986]."

Section 652(e)(1), (2) of Pub. L. 99-661 provided that:

"(1) The amendment made by subsection (a) [amending this section] shall apply only with respect to members discharged or released from active duty on or after the date of the enactment of this Act [Nov. 14, 1986].

"(2)(A) The amendments made by subsection (b) [amending this section] shall apply with respect to dependents about whom a determination by the Secretary concerned is made on or after the date of the enactment of this Act [Nov. 14, 1986].

"(B) In the case of a member described in section 406(h)(2)(c) of such title 37 (as added by subsection (b)), the benefits provided for the dependents of the member shall accrue on the date that the sentence is approved under section 860 of title 10, United States Code."

#### EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Amendment by section 612(b) of Pub. L. 99-145 applicable to travel performed after Sept. 30, 1985, see section 612(c) of Pub. L. 99-145, set out as an Effective Date of 1985 Amendment note under section 404 of this title.

Section 614(b) of Pub. L. 99-145, which provided that the amendments by section 614(a) of Pub. L. 99-145, amending this section, were to expire Sept. 30, 1989, was repealed by Pub. L. 101-510, div. A, title VI, §621, Nov. 5, 1990, 104 Stat. 1580. See Revival of Expired Amendment note below.

Section 617(b) of Pub. L. 99-145 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to orders to change a permanent station that are effective after September 30, 1985."

#### EFFECTIVE DATE OF 1981 AMENDMENT

Enactment of subsec. (a)(3) and amendment of subsec. (b)(1) by Pub. L. 97-60 effective Oct. 14, 1981, enactment of subsecs. (a)(2) and (b)(2) and amendment of subsec. (h)(2) effective Nov. 1, 1981, and applicable to members who are separated from the service or released from active duty on or after Nov. 1, 1981, and enactment of subsec. (g)(2) and (3) effective Nov. 1, 1981, and applicable to members who are retired, placed on the temporary disability retired list, discharged, or involuntarily released on or after Nov. 1, 1981, except that such enactment not to apply to any member who before Nov. 1, 1981, had completed eighteen years of active service, see section 121(d) of Pub. L. 97-60, set out as a note under section 404 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### EFFECTIVE DATE OF 1968 AMENDMENT

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

#### EFFECTIVE DATE OF 1965 AMENDMENT; REIMBURSEMENT OF EXPENSES

Amendment by Pub. L. 89-101 effective May 1, 1965, and personal expenses for transportation of motor vehi-

cles transported after Apr. 30, 1965, and before July 30, 1965, reimbursable, see section 3 of Pub. L. 89-101, set out as a note under section 2634 of Title 10, Armed Forces.

#### STORAGE OF HOUSEHOLD EFFECTS

Section 503(c) of Pub. L. 101-510, as amended by Pub. L. 103-160, div. A, title V, § 561(l)(2), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 105-261, div. A, title V, § 561(f), Oct. 17, 1998, 112 Stat. 2025, provided that:

“(1) The Secretary of a military department shall exercise the authority provided by section 406 of title 37, United States Code, to provide nontemporary storage of baggage and household effects for a period not longer than one year in the case of individuals who are involuntarily separated during the period beginning on October 1, 1990, and ending on September 30, 2001.

“(2) For purposes of this subsection, the term ‘involuntarily separated’ has the meaning given that term in section 1141 of title 10, United States Code.”

#### REVIVAL OF EXPIRED AMENDMENT

Section 621 of Pub. L. 101-510 provided that: “Subsection (b) of section 614 of the Department of Defense Authorization Act, 1986 [Pub. L. 99-145, set out as an Effective and Termination Dates of 1985 Amendment note above] (37 U.S.C. note) is repealed. The amendments made by subsection (a) of that section [amending this section] are hereby revived effective as of October 1, 1989.”

#### PROHIBITION ON RETROACTIVE PAYMENTS UNDER 1985 AMENDMENT

Section 614(c) of Pub. L. 99-145 prohibited payment of allowances to members by virtue of the amendments made by subsection (a), amending this section, in connection with transportation of baggage and household effects provided the member before Nov. 8, 1985.

#### ALLOWANCES FOR LABOR IN CONNECTION WITH TRANSPORTATION OF MEMBERS' BAGGAGE AND EFFECTS; REPORT TO CONGRESS

Section 614(d) of Pub. L. 99-145 required Secretary of Defense to submit a report to Congress not later than Sept. 30, 1988, regarding the operation of any program carried out by the military departments under which payment of a monetary allowance is made to a member who provides all or a part of the labor in connection with the transportation of the baggage and household effects of the member and to include recommendations for legislative action the Secretary considers appropriate.

#### MONETARY ALLOWANCE IN LIEU OF TRANSPORTATION OF HOUSEHOLD EFFECTS

Pub. L. 94-212, title VII, § 747, Feb. 9, 1976, 90 Stat. 176, which provided that appropriations available for transportation of household goods of members of armed forces under subsec. (b) of this section shall be available as a monetary allowance for such transportation, payable in advance under regulations of the Secretary in an amount which would provide savings to the Government when compared with the total costs which would otherwise have been incurred under subsec. (b) of this section, was repealed and reenacted as subsec. (k) of this section by Pub. L. 97-295, §§ 3(4), 6(b), Oct. 12, 1982, 96 Stat. 1303, 1314. Subsec. (k) was subsequently redesignated (j) and repealed.

#### FUNERAL TRANSPORTATION AND LIVING EXPENSE BENEFITS; VIETNAM CONFLICT

Pub. L. 93-257, Mar. 29, 1974, 88 Stat. 53, provided that: “SECTION 1 [Short title]. This Act may be cited as the ‘Funeral Transportation and Living Expense Benefits Act of 1974’.

“SEC. 2 [Findings]. (a) The United States did in 1973 provide transportation and other amenities to families

of five hundred and fifty-six returned prisoners of war for reunions upon these men's arrival in the continental United States after release from imprisonment by the government of the Democratic Republic of Vietnam and did in 1973 also provide transportation and other amenities to these returned prisoners of war and their families to attend ceremonies in their honor in Washington, District of Columbia.

“(b) The remains of other prisoners of war, having died in captivity in Southeast Asia, are now being returned to the United States for burial.

“(c) The United States owes no lesser degree of respect, honor or solicitude to the memories of the men who died in captivity and their families than in the cases of those who survived and returned alive to the United States.

“(d) It is fitting and proper, therefore, as a mark of respect to those men who died in captivity while serving in the Armed Forces of the United States, that comparable courtesies and amenities be extended to the families of these deceased military personnel.

“SEC. 3 [Benefits; deceased prisoners of war or members missing in action; eligible family members]. (a) The Secretary of Defense is authorized to provide funeral transportation and living expenses benefits for the family of any deceased member of the Armed Forces who shall have died while classified as a prisoner of war or as missing in action during the Vietnam conflict and whose remains shall have been returned to the United States after January 27, 1973.

“(b) Such benefits shall include transportation round-trip from such family members' places of residence to the place of burial for such deceased member of the Armed Forces, living expenses and other such allowances as the Secretary shall deem appropriate.

“(c) Eligible family members shall include the deceased's widow, children, stepchildren, mother, father, stepfather and stepmother, or if none of these shall desire to be granted such benefits, the deceased's brothers, sisters, halfbrothers and halfsisters.”

#### CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Family separation allowance, see section 427 of this title.

Regulations for administration of section, see section 411 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 406a, 406b, 406c, 407, 409, 411, 420, 427, 1003 of this title; title 5 section 4109; title 10 sections 1174a, 1175, 2013, 2634; title 14 section 512.

#### § 406a. Travel and transportation allowances; authorized for travel performed under orders that are canceled, revoked, or modified

Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances under section 404 of this title, and to transportation of his dependents, baggage, and household effects under sections 406 and 409 of this title, if otherwise qualified, for travel performed before the effective date of orders that direct him to make a change of station and that are later—

(1) canceled, revoked, or modified to direct him to return to the station from which he was being transferred; or

(2) modified to direct him to make a different change of station.

(Added Pub. L. 88-238, § 1(1), Dec. 23, 1963, 77 Stat. 475.)



## EFFECTIVE DATE; LIMITATIONS

Section 2 of Pub. L. 88-238 provided that: "This Act [enacting this section] becomes effective on October 1, 1949. Any member or former member of the uniformed services who, after September 30, 1949, but before the date of enactment of this Act [Dec. 23, 1963], has not been paid, or has repaid the United States, an amount to which he otherwise would have been entitled had section 1 of this Act [enacting this section] been in effect during that period is entitled to be paid or repaid that amount, if the payment or repayment is otherwise proper and he applies for the payment or repayment within one year after the date of enactment of this Act."

## APPROPRIATIONS

Section 3 of Pub. L. 88-238 provided that: "Any appropriations available to the departments concerned for the pay and allowances of members of the uniformed services are available for payments under this Act [enacting this section]."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 407, 420 of this title.

**§ 406b. Travel and transportation allowances: members of the uniformed services attached to a ship overhauling or inactivating**

(a) Under regulations prescribed by the Secretary concerned, a member of the uniformed services who is on permanent duty aboard a ship which is being overhauled or inactivated away from its home port and whose dependents are residing at the home port of the ship is entitled to transportation, transportation in kind, reimbursement for personally procured transportation, or an allowance for transportation as provided in section 404(d)(3) of this title for round-trip travel from the port of overhaul or inactivation to the home port on or after after the thirty-first calendar day, and every sixtieth calendar day after the thirty-first calendar day after the date on which the ship enters the overhaul or inactivation port or after the date on which the member becomes permanently attached to the ship, whichever date is later. However, in no event shall the amount of reimbursement for personally procured transportation or allowance for transportation exceed the cost of Government-procured commercial round-trip air travel.

(b) Transportation in kind, reimbursement for personally procured transportation, or a monetary allowance in place of the cost of transportation as provided in section 404(d)(1) of this title may be provided, in lieu of the member's entitlement to transportation, for the member's dependents from the location that was the home port of the ship before commencement of overhaul or inactivation to the port of overhaul or inactivation. The total reimbursement for transportation for the member's dependents may not exceed the cost of Government-procured commercial round-trip travel.

(c) In any case in which a member of the uniformed services is assigned to permanent duty aboard a ship that undergoes a change of home port to the overhaul or inactivation port, the dependents of the member may be provided transportation allowances prescribed in sub-

sections (a) and (b) in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.

(d) Section 421 of this title does not apply with respect to transportation or allowances provided under this section.

(Added Pub. L. 91-210, §1(1), Mar. 13, 1970, 84 Stat. 53; amended Pub. L. 93-170, Nov. 29, 1973, 87 Stat. 689; Pub. L. 96-513, title V, §516(11), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 97-22, §11(b)(3)(A), July 10, 1981, 95 Stat. 138; Pub. L. 99-145, title VI, §616(a), (c)(1), Nov. 8, 1985, 99 Stat. 641; Pub. L. 100-26, §8(d)(7), Apr. 21, 1987, 101 Stat. 285; Pub. L. 100-180, div. A, title XII, §1233(a)(3), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 101-189, div. A, title VI, §624(b), Nov. 29, 1989, 103 Stat. 1448; Pub. L. 102-484, div. A, title X, §1054(a)(5), Oct. 23, 1992, 106 Stat. 2502.)

## AMENDMENTS

1992—Subsec. (d). Pub. L. 102-484 substituted "Section 421" for "Section 420".

1989—Subsec. (c). Pub. L. 101-189 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "A member of the uniformed services on permanent duty aboard a ship which undergoes a change of home port to the overhaul or inactivation port and the member's dependents may be provided the transportation allowances prescribed in subsections (a) and (b) of this section in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10."

1987—Subsecs. (a), (b). Pub. L. 100-26, as amended by Pub. L. 100-180, substituted "round-trip" for "round trip" wherever appearing in subsec. (a) and "round-trip" for "roundtrip" in subsec. (b).

1985—Pub. L. 99-145, §616(c)(1), struck out "away from home port" in section catchline.

Subsecs. (a) to (d). Pub. L. 99-145, §616(a), designated existing provisions as subsec. (a), substituted "calendar day, and every sixtieth calendar day after the thirty-first calendar day" for "ninety-first, and one hundred and fifty-first calendar day", and added subsecs. (b) to (d).

1981—Pub. L. 97-22 substituted "uniformed services" for "Uniformed Services" in section catchline.

1980—Pub. L. 96-513 substituted "uniformed services" for "Uniformed Services", "title" for "chapter", and "later. However," for "later: *Provided, however*, That".

1973—Pub. L. 93-170 substituted "overhauling or inactivating" for "overhauling" in section catchline, and "overhauled or inactivated" and "overhaul or inactivation" for "overhauled" and "overhaul" respectively, wherever appearing in text.

## EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 1233(a)(3) of Pub. L. 100-180 applicable as if included in the enactment of the Defense Technical Corrections Act of 1987, Pub. L. 100-26, see section 1233(c) of Pub. L. 100-180, set out as a note under section 101 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 1985 AMENDMENT

Section 616(b) of Pub. L. 99-145 provided that: "The travel allowances authorized by the amendments made by this section [amending this section] are payable only for travel that commences after September 30, 1985, but may be paid for members assigned to vessels being overhauled or inactivated away from home port on the date of the enactment of this Act [Nov. 8, 1985]."

## EFFECTIVE DATE OF 1980 AMENDMENT

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

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 420 of this title.

**§ 406c. Travel and transportation allowances: members assigned to a vessel under construction**

(a) ALLOWANCE AUTHORIZED.—(1) Under regulations prescribed by the Secretary concerned, a member of the uniformed services who is assigned to permanent duty aboard a ship that is under construction at a location other than—

- (A) the designated home port of the ship; or
- (B) the area where the dependents of the member are residing,

is entitled to transportation, or an allowance for transportation under section 404(d)(3) of this title, for round-trip travel from the port of construction to either of those locations as provided in paragraph (2).

(2) A member referred to in paragraph (1) shall be entitled to such transportation or allowance on or after the thirty-first day (and every sixtieth day after the thirty-first day) after the later of—

- (A) the date on which the ship enters the construction port; and
- (B) the date on which the member becomes permanently assigned to the ship.

(3) The amount of reimbursement for personally procured transportation or the allowance for transportation under this subsection may not exceed the cost of Government-procured commercial round-trip air travel.

(b) DEPENDENTS TRAVEL.—(1) In lieu of the entitlement of a member of the uniformed services to transportation under subsection (a), the Secretary concerned may provide transportation in kind, reimbursement for personally procured transportation, or a monetary allowance in place of the cost of transportation as provided in section 404(d)(1) of this title for the travel of the dependents of the member from the designated home port of the ship, or the area where the dependents of the member are residing, to the port of construction.

(2) The total reimbursement for transportation for the member's dependents under paragraph (1) may not exceed the cost of Government-procured commercial round-trip travel.

(c) CHANGE OF HOME PORT.—In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the port at which the ship is being constructed, the dependents of such member may be provided the transportation allowances prescribed in subsections (a) and (b) in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.

(d) APPLICATION OF OTHER LAW.—Section 420 of this title does not apply with respect to transportation or allowances provided under this section.

(Added Pub. L. 101-189, div. A, title VI, §624(a)(1), Nov. 29, 1989, 103 Stat. 1447; amended Pub. L. 102-190, div. A, title VI, §622, Dec. 5, 1991, 105 Stat. 1378.)

AMENDMENTS

1991—Subsec. (b)(1). Pub. L. 102-190 substituted “the designated home port of the ship, or the area where the

dependents of the member are residing;” for “the location that was the home port of the ship before commencement of construction”.

**§ 407. Travel and transportation allowances: dislocation allowance**

(a) ELIGIBILITY FOR PRIMARY DISLOCATION ALLOWANCE.—(1) Under regulations prescribed by the Secretary concerned, a member of a uniformed service described in paragraph (2) is entitled to a primary dislocation allowance at the rate determined under subsection (c) for the member's pay grade and dependency status.

(2) A member of the uniformed services referred to in paragraph (1) is any of the following:

(A) A member who makes a change of permanent station and the member's dependents actually make an authorized move in connection with the change, including a move by the dependents—

(i) to join the member at the member's duty station after an unaccompanied tour of duty when the member's next tour of duty is an accompanied tour at the same station; and

(ii) to a location designated by the member after an accompanied tour of duty when the member's next tour of duty is an unaccompanied tour at the same duty station.

(B) A member whose dependents actually move pursuant to section 405a(a), 406(e), 406(h), or 554 of this title.

(C) A member whose dependents actually move from their place of residence under circumstances described in section 406a of this title.

(D) A member who is without dependents and—

(i) actually moves to a new permanent station where the member is not assigned to quarters of the United States; or

(ii) actually moves from a place of residence under circumstances described in section 406a of this title.

(E) A member who is ordered to move in connection with the closure or realignment of a military installation and, as a result, the member's dependents actually move or, in the case of a member without dependents, the member actually moves.

(3) If a primary dislocation allowance is paid under this subsection to a member described in subparagraph (C) or (D)(ii) of paragraph (2), the member is not entitled to another dislocation allowance as a member described in subparagraph (A) or (E) of such paragraph in connection with the same move.

(b) SECONDARY ALLOWANCE AUTHORIZED UNDER CERTAIN CIRCUMSTANCES.—(1) Under regulations prescribed by the Secretary concerned, whenever a member is entitled to a primary dislocation allowance under subsection (a) as a member described in paragraph (2)(C) or (2)(D)(ii) of such subsection, the member is also entitled to a secondary dislocation allowance at the rate determined under subsection (c) for the member's pay grade and dependency status if, subsequent to the member or the member's dependents actually moving from their place of residence under

circumstances described in section 406a of this title, the member or member's dependents complete that move to a new location and then actually move from that new location to another location also under circumstances described in section 406a of this title.

(2) If a secondary dislocation allowance is paid under this subsection, the member is not entitled to a dislocation allowance as a member described in paragraph (2)(A) or (2)(E) of subsection (a) in connection with those moves.

(c) **DISLOCATION ALLOWANCE RATES.**—(1) The amount of the dislocation allowance to be paid under this section to a member shall be based on the member's pay grade and dependency status at the time the member becomes entitled to the allowance.

(2) The initial rate for the dislocation allowance, for each pay grade and dependency status, shall be equal to the rate in effect for that pay grade and dependency status on December 31, 1997, as adjusted by the average percentage increase in the rates of basic pay for calendar year 1998. Effective on the same date that the monthly rates of basic pay for members are increased for a subsequent calendar year, the Secretary of Defense shall adjust the rates for the dislocation allowance for that calendar year by the percentage equal to the average percentage increase in the rates of basic pay for that calendar year.

(d) **FISCAL YEAR LIMITATION; EXCEPTIONS.**—(1) A member is not entitled to more than one dislocation allowance under this section during a fiscal year unless—

(A) the Secretary concerned finds that the exigencies of the service require the member to make more than one change of permanent station during the fiscal year;

(B) the member is ordered to a service school as a change of permanent station;

(C) the member's dependents are covered by section 405a(a), 406(e), 406(h), or 554 of this title; or

(D) subparagraph (C) or (D)(ii) of subsection (a)(2) or subsection (b) apply with respect to the member or the member's dependents.

(2) This subsection does not apply in time of national emergency or in time of war.

(e) **FIRST OR LAST DUTY.**—A member is not entitled to payment of a dislocation allowance under this section when the member is ordered from the member's home to the member's first duty station or from the member's last duty station to the member's home.

(f) **RULE OF CONSTRUCTION.**—For purposes of this section, a member whose dependents may not make an authorized move in connection with a change of permanent station is considered a member without dependents.

(g) **ADVANCE PAYMENT.**—A dislocation allowance payable under this section may be paid in advance.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 474; Pub. L. 89-26, §1(3), (4), May 22, 1965, 79 Stat. 117; Pub. L. 89-718, §60, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-207, §1(4), Dec. 16, 1967, 81 Stat. 651; Pub. L. 97-60, title I, §124, Oct. 14, 1981, 95 Stat. 1003; Pub. L. 99-145, title VI, §611(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99-661, div. A, title VI, §619(a),

Nov. 14, 1986, 100 Stat. 3881; Pub. L. 100-180, div. A, title VI, §613, Dec. 4, 1987, 101 Stat. 1093; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title VI, §624, Feb. 10, 1996, 110 Stat. 363; Pub. L. 104-201, div. A, title VI, §622(a), Sept. 23, 1996, 110 Stat. 2548; Pub. L. 105-85, div. A, title VI, §632(a), Nov. 18, 1997, 111 Stat. 1795.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
407(a) .....	37:253(c) (4th sentence).	Oct. 12, 1949, ch. 681, §303(c) (4th through 8th sentences); added Mar. 31, 1955, ch. 20, §2(12), 69 Stat. 21.
407(b) .....	37:253(c) (5th, 6th, and 7th, sentences).	
407(c) .....	37:253(c) (8th sentence).	

In subsection (a), the words "Except as provided in subsections (b) and (c) of this section" and "for one month" are inserted for clarity. The words "make an authorized move" are substituted for the words "are authorized to move and actually move".

In subsection (b), the words "is not entitled to . . . more than one" are substituted for the words "shall be entitled . . . for not more than one". The words "the payment of" and "for not more than one permanent change of station" are omitted as surplusage. Clauses (1) and (2) are substituted for the last 29 words of the 5th and 6th sentences of section 253(c) of existing title 37.

#### AMENDMENTS

1997—Pub. L. 105-85 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to dislocation allowances for members of the uniformed services.

1996—Subsec. (a). Pub. L. 104-201 substituted "two and one-half months" for "two months" in introductory provisions.

Pub. L. 104-106, §624(b)(1), in concluding provisions, substituted "paragraph (3) or (4)(B)" for "clause (3) or (4)(B)" and "paragraph (1) or (5)" for "clause (1)".

Subsec. (a)(5). Pub. L. 104-106, §624(a), added par. (5).

Subsec. (b). Pub. L. 104-106, §624(b)(2), substituted "paragraph (3) or (4)(B) of subsection (a)" for "subsection (a)(3) or (a)(4)(B)" and "paragraph (1) or (5) of subsection (a)" for "subsection (a)(1)".

1991—Pub. L. 102-25 struck out "of this section" wherever appearing in subsecs. (a) to (c).

1987—Subsec. (f). Pub. L. 100-180 added subsec. (f).

1986—Pub. L. 99-661 amended section generally. Prior to amendment, section read as follows:

"(a) Except as provided by subsections (b) and (c) of this section, under regulations prescribed by the Secretary concerned, a member of a uniformed service—

"(1) whose dependents make an authorized move in connection with his change of permanent station;

"(2) whose dependents are covered by section 405a(a) of this title; or

"(3) without dependents, who is transferred to a permanent station where he is not assigned to quarters of the United States;

is entitled to a dislocation allowance equal to his basic allowance for quarters for two months as provided for a member of his pay grade and dependency status in section 403 of this title. For the purposes of this subsection, a member whose dependents may not make an authorized move in connection with a change of permanent station is considered a member without dependents. An allowance payable under this section may be paid in advance.

"(b) A member is not entitled to more than one dislocation allowance during a fiscal year unless—

"(1) the Secretary concerned finds that the exigencies of the service require the member to make more than one such change of station during that fiscal year;

“(2) the member is ordered to a service school as a change of permanent station; or  
 “(3) the member’s dependents are covered by section 405a(a) of this title.

This subsection does not apply in time of national emergency declared after April 1, 1955, or in time of war.

“(c) A member is not entitled to payment of a dislocation allowance when ordered from his home to his first duty station or from his last duty station to his home.”

1985—Subsec. (a). Pub. L. 99-145 substituted “two months” for “one month” in first sentence.

1981—Subsec. (a). Pub. L. 97-60 inserted sentence in provision following cl. (3) authorizing the payment in advance of an allowance payable under this section.

1967—Subsec. (a). Pub. L. 90-207 authorized a dislocation allowance for a member of a uniformed service without dependents who is transferred to a permanent station where he is not assigned to quarters of the United States and for dislocation allowance purposes deemed a member whose dependents may not make an authorized move in connection with a change of permanent station to be a member without dependents.

1966—Subsecs. (a), (b)(2). Pub. L. 89-718 substituted “change of permanent station” for “permanent change of station”.

1965—Subsec. (a). Pub. L. 89-26, §1(3), authorized a dislocation allowance for a member of the uniformed service whose dependents are covered by section 405a(a) of this title.

Subsec. (b)(3). Pub. L. 89-26, §1(4), added cl. (3).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 632(b) of Pub. L. 105-85 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1998.”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 622(b) of Pub. L. 104-201 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1997.”

EFFECTIVE DATE OF 1986 AMENDMENT

Section 619(b) of Pub. L. 99-661 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 14, 1986] and shall apply only to moves which commence on or after that date.”

EFFECTIVE DATE OF 1985 AMENDMENT

Section 611(b) of Pub. L. 99-145 provided that: “The amendment made by this section [amending this section] shall apply to moves begun after September 30, 1985.”

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-207 effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as a note under section 203 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-26 effective Feb. 1, 1965, see section 2 of Pub. L. 89-26, as amended, set out as an Effective Date note under section 405a of this title.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Regulations for administration of section, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 411, 420, 1003, 1006 of this title.

**§ 408. Travel and transportation allowances: travel within limits of duty station**

(a) A member of a uniformed service may be directed, by regulations of the head of the department or agency in which he is serving, to procure transportation necessary for conducting official business of the United States within the limits of his station. Expenses so incurred by the member for train, bus, streetcar, taxicab, ferry, bridge, and similar fares and tolls, or for the use of privately owned vehicles at a fixed rate a mile plus parking fees, shall be defrayed by the department or agency under which he is serving, or the member is entitled to be reimbursed for the expense.

(b)(1) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who performs emergency duty described in paragraph (2) is entitled to travel and transportation allowances under section 404 of this title for that duty.

(2) The emergency duty referred to in paragraph (1) is duty that—

(A) is performed by a member under emergency circumstances that threaten injury to property of the Federal Government or human life;

(B) is performed at a location within the limits of the member’s station (other than at the residence or normal duty location of the member);

(C) is performed pursuant to the direction of competent authority; and

(D) requires the member’s use of overnight accommodations.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 475; Pub. L. 99-145, title VI, §619(a), Nov. 8, 1985, 99 Stat. 642; Pub. L. 100-26, §8(d)(6), Apr. 21, 1987, 101 Stat. 285; Pub. L. 102-190, div. A, title VI, §623, Dec. 5, 1991, 105 Stat. 1379.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
408 .....	40:491(m).	June 30, 1949, ch. 288, §211(m); added Sept. 1, 1954, ch. 1211, §2 (13th par.), 68 Stat. 1126.

The words “(as defined in the Career Compensation Act of 1949, as amended)” and “so directed” are omitted as surplusage. The words “official business of the United States” are substituted for the words “official Government business”.

AMENDMENTS

1991—Pub. L. 102-190 designated existing provisions as subsec. (a) and added subsec. (b).

1987—Pub. L. 100-26 substituted “privately owned” for “privately-owned”.

1985—Pub. L. 99-145 inserted “plus parking fees” after “fixed rate a mile”.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 619(b) of Pub. L. 99-145 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to parking fees incurred after September 30, 1985.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 420 of this title.

**§ 409. Travel and transportation allowances: house trailers and mobile homes**

(a)(1) A member, or in the case of a member's death, the member's dependent, who would otherwise be entitled to transportation of baggage and household effects under section 406 of this title, may be provided transportation of a house trailer or mobile home dwelling within the continental United States, within Alaska, or between the continental United States and Alaska (or reimbursement for such transportation), if the house trailer or mobile home dwelling is intended for use as a residence by such member or dependent. Such transportation may be limited to such modes and maximum costs as may be prescribed by regulations under subsection (d).

(2) Except as provided in subsection (c), transportation of a house trailer or mobile home dwelling under paragraph (1) is in place of the transportation of baggage and household effects the member or member's dependent would otherwise be entitled to have provided.

(3) The cost of transportation of a house trailer or mobile home dwelling under paragraph (1) may not be more than the total cost of transportation (including packing, pick-up, line-haul or drayage, delivery, and unpacking) of baggage and household effects of the member or dependent having the maximum weight authorized for the member or dependent under regulations prescribed by the Secretary concerned.

(4) A house trailer or mobile home dwelling in transit under this section may be stored up to 180 days in accordance with regulations prescribed by the Secretary concerned.

(b) Any payment authorized by this section may be made in advance of the transportation concerned.

(c) A member or member's dependent who is entitled to the transportation of baggage or household effects from a place inside the continental United States or Alaska to a place outside the continental United States or Alaska, or from a place outside the continental United States or Alaska to a place inside the continental United States or Alaska, may be provided the transportation of a house trailer or mobile dwelling under this section, but the total cost to the Government of the transportation of baggage and household effects and the transport of a house trailer or mobile home dwelling may not exceed the cost of transporting baggage and household effects of the member or dependent having the maximum weight authorized for the member or dependent under regulations prescribed by the Secretary concerned.

(d) The Secretaries concerned shall prescribe regulations to carry out this section.

(e) In this section, the term "continental United States" means the 48 contiguous States and the District of Columbia.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 475; Pub. L. 88-406, Aug. 7, 1964, 78 Stat. 383; Pub. L. 89-718, §§61, 62, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-246, Jan. 2, 1968, 81 Stat. 782; Pub. L. 96-342, title VIII, §808(a)(1), Sept. 8, 1980, 94 Stat. 1096; Pub. L. 100-26, §8(e)(6), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102-25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
409 .....	37:253(c) (12th sentence).	Oct. 12, 1949, ch. 681, §303(c) (12th sentence); added Mar. 31, 1955, ch. 20, §2(13), 69 Stat. 22; Mar. 17, 1958, Pub. L. 85-347, 72 Stat. 37; re-stated Oct. 4, 1961, Pub. L. 87-374, 75 Stat. 804.

The words "the United States, except in Hawaii or Alaska," are substituted for the words "the continental United States" to conform to the definition of United States in section 101(1) of this revised title and to reflect the opinion of the Comptroller General in B-139624, June 29, 1959, that Alaska was not included within those words. The words "an agent of the United States" are substituted for the words "the Government", for clarity. The words "United States" are substituted for the word "Government". The words "of the uniformed services" are omitted as surplusage in view of the definition of member in section 101(23) of this revised title.

## AMENDMENTS

1991—Subsec. (a)(1) to (3). Pub. L. 102-25 struck out "of this section" and "of this subsection" wherever appearing.

1987—Subsec. (e). Pub. L. 100-26 inserted "the term" after "In this section,".

1980—Pub. L. 96-342 completely revised and expanded provisions covering the travel and transportation allowances for the movement of house trailers and mobile homes, changing the structure of the section from a single unlettered paragraph to one consisting of five subsections lettered (a) to (e).

1968—Pub. L. 90-246 substituted "74 cents" for "51 cents" as maximum allowable cost-of-transportation mileage rate.

1966—Pub. L. 89-718 substituted "household effects" for "household goods" and "48" for "forty-eight".

1964—Pub. L. 88-406 substituted "continental United States, within Alaska, or between the continental United States and Alaska" for "United States except in Hawaii or Alaska", "51 cents" for "36 cents", inserted "by the United States or" in cl. (2), and defined "continental United States".

## EFFECTIVE DATE OF 1980 AMENDMENT

Section 808(b) of Pub. L. 96-342 provided that: "The amendments made by subsection (a) [amending this section] shall only apply to transportation of house trailers and mobile home dwellings which is completed after September 30, 1980."

## CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Regulations for administration of section, see section 411 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406a, 411, 420, 554, 1003 of this title; title 5 section 4109; title 10 section 2013.

**§ 410. Travel and transportation allowances: miscellaneous categories**

(a) The following persons are entitled to such travel and transportation allowances provided by section 404 of this title as prescribed by the Secretaries concerned—

(1) cadets of the United States Military Academy;

(2) midshipmen of the United States Naval Academy;

- (3) cadets of the United States Air Force Academy;
- (4) cadets of the Coast Guard Academy;
- (5) applicants for enlistment;
- (6) rejected applicants for enlistment;
- (7) general prisoners;
- (8) discharged prisoners;
- (9) insane patients transferred from military hospitals to other hospitals or to their homes; and
- (10) persons discharged from Saint Elizabeths Hospital after transfer from a uniformed service.

(b) The Secretary concerned shall, in prescribing allowances under subsection (a), consider the rights of the United States, as well as those of the persons concerned.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 475; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

(c) The Secretaries concerned shall determine what constitutes a travel status for the purposes of the sections of this title designated by subsection (a).

(d) The Secretary concerned shall define the term “permanent station” for the purposes of the sections of this title designated by subsection (a). The definition shall include a shore station or the home yard or home port of a vessel to which a member of a uniformed service who is entitled to basic pay may be ordered. An authorized change in the home yard or home port of such a vessel is a change of permanent station.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 89-26, §1(5), May 22, 1965, 79 Stat. 117; Pub. L. 96-343, §5(b), Sept. 8, 1980, 94 Stat. 1126; Pub. L. 96-513, title V, §516(12), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 97-60, title I, §122(b), Oct. 14, 1981, 95 Stat. 1003; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
410(a) .....	37:253(e) (less last 25 words).	Oct. 12, 1949, ch. 681, §303(e), 63 Stat. 815.
410(b) .....	37:253(e) (last 25 words).	

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
411(a) .....	37:253(h).	Oct. 12, 1949, ch. 681, §303(c) (10th sentence).
411(b) .....	37:253(f).	(f), (g), (h), 63 Stat. 814.
411(c) .....	37:253(g).	
411(d) .....	37:253(c) (10th sentence).	

AMENDMENTS

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

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Cadets, midshipmen, and naval officer candidates, travel and transportation allowances, see section 422 of this title.

Regulations for administration of section, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 411, 420, 422, 1003 of this title.

**§ 411. Travel and transportation allowances: administrative provisions**

(a) For the administration of sections 404(a), (b), and (d)–(f), 404a, 405, 405a, 406(a)–(f), 407, 409, and 410 of this title, the Secretaries concerned shall prescribe regulations that are, as far as practicable, uniform for all of the uniformed services.

(b) In establishing the rates and kinds of allowances authorized by the sections of this title designated by subsection (a), the Secretaries concerned shall—

- (1) consider the average cost of common carrier transportation when prescribing a monetary allowance in place of transportation;
- (2) consider the current economic data on the cost of subsistence, including lodging and other necessary incidental expenses related thereto, when prescribing per diem rates and designating areas as high cost areas; and
- (3) consider the average cost of transportation and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage allowances.

In subsection (a), section 253(h) (provisos) of existing title 37 is omitted, since the regulations to which reference is made have been issued. The exceptions to sections 404(c) and 406(g) are inserted, since the source text for those subsections require regulations prescribed thereunder to be uniform.

In subsections (c) and (d), the words “for the purposes of the sections of this title designated by subsection (a) of this section” are inserted to clarify the coverage of the source statute.

AMENDMENTS

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

1981—Subsec. (a). Pub. L. 97-60 inserted reference to section 404a.

1980—Subsec. (b)(1). Pub. L. 96-343, §5(b)(1), substituted “common carrier transportation” for “first-class transportation, including sleeping accommodations.”

Subsec. (b)(2). Pub. L. 96-343, §5(b)(2), inserted “and designating areas as high cost areas” after “rates”.

Subsec. (b)(3). Pub. L. 96-343, §5(b)(3), substituted “transportation” for “first-class transportation, including sleeping accommodations” and “allowances” for “rates”.

Subsec. (d). Pub. L. 96-513 substituted “term” for “words”.

1965—Subsec. (a). Pub. L. 89-26 inserted reference to section 405a.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-60 effective Apr. 1, 1982, see section 122(c) of Pub. L. 97-60, set out as an Effective Date note under section 404a of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

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

Amendment by Pub. L. 96-343 effective with respect to travel and transportation performed after Aug. 31, 1980, see section 5(c) of Pub. L. 96-343, set out as a note under section 404 of this title.

## EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-26 effective Feb. 1, 1965, see section 2 of Pub. L. 89-26, as amended, set out as an Effective Date note under section 405a of this title.

## CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 420, 1003 of this title.

**§ 411a. Travel and transportation allowances: travel performed in connection with convalescent leave**

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel from his place of medical treatment in the continental United States to a place selected by him and approved by the Secretary concerned, and return, when the Secretary concerned determines that the member is traveling in connection with authorized leave for convalescence from illness or injury incurred while the member was eligible for the receipt of hostile fire pay under section 310 of this title.

(b) The allowances prescribed under this section may not be at rates more than the rates authorized under section 404(d)(1) of this title. Authorized travel under this section is performed in a duty status.

(Added Pub. L. 90-207, §9(1), Dec. 16, 1967, 81 Stat. 655.)

## EFFECTIVE DATE

Section effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as an Effective Date of 1967 Amendment note under section 203 of this title.

**§ 411b. Travel and transportation allowances: travel performed in connection with leave between consecutive overseas tours**

(a)(1) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service stationed outside the 48 contiguous States and the District of Columbia who is ordered to a consecutive tour of duty at the same duty station or who is ordered to make a change of permanent station to another duty station outside the 48 contiguous States and the District of Columbia may be paid travel and transportation allowances in connection with authorized leave from his last duty station to a place approved by the Secretary concerned, or his designee, or to a place no farther distant than his home of record and from that place to his designated post of duty. Such allowances may be paid for the member and for the dependents of the member who are authorized to, and do, accompany him at his duty stations.

(2) Under the regulations referred to in paragraph (1), a member may defer the travel for which the member is paid travel and transportation allowances under such paragraph until not more than one year after the date on which the member begins the consecutive tour of duty at the same duty station or reports to another

duty station under the order involved, as the case may be. If the member is unable to undertake the travel before the end of such one-year period as a result of duty in connection with a contingency operation, the member may defer the travel for one additional year beginning on the date the duty of the member in connection with the contingency operation ends.

(b) The allowances prescribed under this section may not exceed the rate authorized under section 404(d) of this title. Authorized travel under this section is performed in a duty status.

(Added Pub. L. 93-213, §1(1), Dec. 28, 1973, 87 Stat. 910; amended Pub. L. 97-60, title I, §125, Oct. 14, 1981, 95 Stat. 1003; Pub. L. 99-145, title VI, §615(a), Nov. 8, 1985, 99 Stat. 641; Pub. L. 100-26, §8(d)(8), Apr. 21, 1987, 101 Stat. 286; Pub. L. 100-180, div. A, title VI, §614(d)(1), (2), Dec. 4, 1987, 101 Stat. 1095; Pub. L. 102-190, div. A, title VI, §624, Dec. 5, 1991, 105 Stat. 1379; Pub. L. 104-201, div. A, title VI, §623(a), Sept. 23, 1996, 110 Stat. 2548.)

## AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104-201 inserted at end “If the member is unable to undertake the travel before the end of such one-year period as a result of duty in connection with a contingency operation, the member may defer the travel for one additional year beginning on the date the duty of the member in connection with the contingency operation ends.”

1991—Subsec. (a)(2). Pub. L. 102-190 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “If, because of military necessity, a member authorized travel and transportation allowances under this subsection is denied leave between the two tours of duty outside the 48 contiguous States and the District of Columbia, the member shall be authorized to use such travel and transportation allowances from his current duty station at the time the member is first granted leave—

“(A) which is to be taken away from the member’s permanent duty station; and

“(B) for which a travel and transportation allowance is not otherwise authorized.”

1987—Pub. L. 100-180, §614(d)(2), amended section catchline generally, substituting “leave between consecutive overseas tours” for “certain leave”.

Subsec. (a). Pub. L. 100-26 substituted “48” for “forty-eight” wherever appearing.

Subsec. (a)(2). Pub. L. 100-180, §614(d)(1), substituted “the time the member is first granted leave—” for “the first time the member is granted leave.” and added subpars. (A) and (B).

1985—Subsec. (a)(1). Pub. L. 99-145 struck out “if he is a member without dependents,” after “home of record”, struck out “, if either his last duty station or his designated post of duty is a restricted area in which dependents are not authorized” after “post of duty” in first sentence, and inserted “such allowances may be paid for the member and for the dependents of the member who are authorized to, and do, accompany him at his duty stations.”

1981—Subsec. (a). Pub. L. 97-60 designated existing provisions as par. (1), inserted “who is ordered to a consecutive tour of duty at the same duty station or” after “District of Columbia”, and added par. (2).

## EFFECTIVE DATE OF 1996 AMENDMENT

Section 623(b) of Pub. L. 104-201 provided that: “The amendment made by subsection (a) [amending this section] shall take effect as of November 1, 1995.”

## EFFECTIVE DATE OF 1985 AMENDMENT

Section 615(b) of Pub. L. 99-145 provided that: “The amendments made by subsection (a) [amending this

section] shall apply with respect to orders to change a permanent station that are effective after September 30, 1985.”

**§ 411c. Travel and transportation allowances: travel performed in connection with rest and recuperative leave from certain stations in foreign countries**

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service who is serving at a duty station outside the United States in an area specifically designated for the purposes of this section by the Secretary concerned may be paid for or provided transportation for himself and his dependents authorized to reside at his duty station—

(1) to another location outside the United States having different social, climatic, or environmental conditions than those at the duty station at which the member is serving; or

(2) to a location in the United States.

(b) When the transportation authorized by subsection (a) is provided by the Secretary concerned, the Secretary may use Government or commercial carriers. The Secretary concerned may limit the amount of payments made to members under subsection (a).

(Added Pub. L. 97-60, title I, § 126(a), Oct. 14, 1981, 95 Stat. 1003; amended Pub. L. 100-26, § 8(d)(9), Apr. 21, 1987, 101 Stat. 286; Pub. L. 105-261, div. A, title VI, § 633(a), (b)(1), Oct. 17, 1998, 112 Stat. 2044.)

AMENDMENTS

1998—Pub. L. 105-261, § 633(b)(1), substituted “rest and recuperative leave from certain stations” for “leave from certain stations” in section catchline.

Subsec. (b). Pub. L. 105-261, § 633(a), added subsec. (b) and struck out former subsec. (b) which read as follows: “The transportation authorized by this section is limited to transportation of the member, and of each dependent of the member, for one round-trip during any tour of at least 24, but less than 36, consecutive months or two round-trips during any tour of at least 36 consecutive months.”

1987—Subsec. (b). Pub. L. 100-26 substituted “round-trip” for “roundtrip” and “round-trips” for “roundtrips”.

**§ 411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents**

(a) Under uniform regulations prescribed by the Secretaries concerned, transportation in accordance with subsection (b) may be provided for a member of a uniformed service and for dependents of that member authorized to reside at the member’s duty station (or authorized to reside at another location and receive a station allowance) incident to emergency leave granted for reasons of a personal emergency (or in the case of transportation provided only for a dependent, under circumstances involving a personal emergency similar to the circumstances for which emergency leave could be granted a member).

(b)(1) In the case of a member stationed outside the continental United States and the dependents of such a member, transportation under this section may be provided from the lo-

cation of the member or dependents, at the time notification of the personal emergency is received, or the member’s permanent duty station (and if the member’s dependents reside at another overseas location and receive a station allowance, from that location)—

(A) to the international airport in the continental United States closest to the location from which the member and his dependents departed; or

(B) to an airport in Alaska, Hawaii, the Commonwealth of Puerto Rico, any possession of the United States, or any other location outside the continental United States, as determined by the Secretary concerned.

(2) In the case of a member whose domicile is outside the continental United States and who is stationed in the continental United States and the dependents of such a member, transportation under this section may be provided from the international airport in the continental United States nearest the location of the member and dependents at the time notification of the personal emergency is received or the international airport nearest the member’s permanent duty station to an international airport in Alaska, Hawaii, the Commonwealth of Puerto Rico, a possession of the United States, or any other location outside the continental United States, as determined by the Secretary concerned.

(3) In the case of a member stationed outside the continental United States whose dependents reside in the continental United States, transportation under this section may be provided for the member as described in paragraph (1) and for the dependents as described in paragraph (2).

(4) Whenever transportation is provided under this section, return transportation may be provided to the location from which the member or dependent departed or the member’s duty station.

(c) Transportation under this section may be authorized only upon a determination that, considering the nature of the personal emergency involved, Government transportation is not reasonably available. The cost of transportation authorized under this section for a member, or the dependents of a member, may not exceed the cost of Government-procured commercial air travel between the applicable locations described in subsection (b).

(d) In this section, the term “continental United States” means the 48 contiguous States and the District of Columbia.

(Added Pub. L. 97-60, title I, § 126(a), Oct. 14, 1981, 95 Stat. 1004; amended Pub. L. 98-525, title VI, § 612(a)(1), Oct. 19, 1984, 98 Stat. 2538; Pub. L. 100-26, § 8(e)(6), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102-25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103-337, div. A, title VI, § 623, Oct. 5, 1994, 108 Stat. 2784.)

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103-337, § 623(1)(A), substituted “from the location of the member or dependents, at the time notification of the personal emergency is received, or” for “from the international airport nearest the location of the member and dependents at the time notification of the personal emergency



is received or the international airport nearest” in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 103-337, § 623(1)(B), substituted “closest to the location” for “closest to the international airport”.

Subsec. (b)(4). Pub. L. 103-337, § 623(2), substituted “to the location from which the member or dependent departed or the member’s duty station.” for “to the international airport from which the member or dependent departed or the international airport nearest the member’s duty station.”

1991—Subsecs. (a), (b)(3), (c). Pub. L. 102-25 struck out “of this section” in subsecs. (a) and (c) and “of this subsection” in two places in subsec. (b)(3).

1987—Subsec. (d). Pub. L. 100-26 inserted “the term” after “In this section.”

1984—Pub. L. 98-525 substituted “personal emergencies for certain members and dependents” for “certain emergencies for members performing temporary duty” in section catchline.

Subsec. (a). Pub. L. 98-525 substituted “transportation in accordance with subsection (b) of this section may be provided for a member of a uniformed service and for dependents of that member authorized to reside at the member’s duty station (or authorized to reside at another location and receive a station allowance) incident to emergency leave granted for reasons of a personal emergency (or in the case of transportation provided only for a dependent, under circumstances involving a personal emergency similar to the circumstances for which emergency leave could be granted a member)” for “a member of a uniformed service who is performing temporary duty away from his permanent duty station (or who is assigned to a ship or unit operating away from its home port) may be provided the travel and transportation authorized by section 404 of this title for travel performed by the member from his place of temporary duty (or from his ship or unit) to his permanent duty station (or the home port of the ship or unit) or to any other location, and return (if applicable), if such travel has been approved incident to the serious illness or injury or the death of a dependent of the member”.

Subsec. (b). Pub. L. 98-525 added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 98-525 redesignated subsec. (b) as (c), substituted “Transportation under this section may be authorized only upon a determination that, considering the nature of the personal emergency involved, Government transportation is not reasonably available” for “Transportation under this section may be authorized only upon a determination that Government transportation is not reasonably available, considering the nature of the personal emergency involved”, and substituted “The cost of transportation authorized under this section for a member, or the dependents of a member, may not exceed the cost of Government-procured commercial air travel between the applicable locations described in subsection (b) of this section” for “The cost of transportation authorized under this section may not exceed the cost of Government-procured commercial air travel from the member’s place of temporary duty (or from his ship or unit) to the member’s permanent duty station (or the home port of the ship or unit), and return (if applicable)”.

Subsec. (d). Pub. L. 98-525 added subsec. (d).

#### EFFECTIVE DATE OF 1984 AMENDMENT

Section 612(b) of Pub. L. 98-525 provided that: “The amendment made by subsection (a)(1) [amending this section] shall apply with respect to transportation begun after September 30, 1984.”

#### **§ 411e. Travel and transportation allowances: transportation incident to certain emergencies for members performing temporary duty**

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of a uni-

formed service who is performing temporary duty away from his permanent duty station (or who is assigned to a ship or unit operating away from its home port) may be provided the travel and transportation authorized by section 404 of this title for travel performed by the member from his place of temporary duty (or from his ship or unit) to his permanent duty station (or the home port of the ship or unit) or to any other location, and return (if applicable), if such travel has been approved incident to a personal emergency of the member.

(b) Transportation under this section may be authorized only upon a determination that Government transportation is not reasonably available, considering the nature of the personal emergency involved. The cost of transportation authorized under this section may not exceed the cost of Government-procured commercial air travel from the member’s place of temporary duty (or from his ship or unit) to the member’s permanent duty station (or the home port of the ship or unit), and return (if applicable).

(Added Pub. L. 97-60, title I, § 126(a), Oct. 14, 1981, 95 Stat. 1004; amended Pub. L. 100-456, div. A, title VI, § 623(a), Sept. 29, 1988, 102 Stat. 1984.)

#### AMENDMENTS

1988—Subsec. (a). Pub. L. 100-456 substituted “incident to a personal emergency of the member” for “incident to the serious illness or injury or the death of a dependent of the member”.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 623(b) of Pub. L. 100-456 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to travel performed after September 30, 1988.”

#### **§ 411f. Travel and transportation allowances: transportation for survivors of deceased member to attend the member’s burial ceremonies**

(a) Under uniform regulations prescribed by the Secretaries concerned, round trip travel and transportation allowances may be provided the dependents of a member who dies while on active duty or inactive duty in order that such dependents may attend the burial ceremonies of the deceased member.

(b)(1) Except as provided in paragraph (2), allowances under this section are limited to travel and transportation to a location in the United States, Puerto Rico, and the possessions of the United States and may not exceed the rates for 2 days.

(2) If a deceased member was ordered or called to active duty from a place outside the United States, Puerto Rico, or the possessions of the United States, the allowances authorized under this section may be provided to and from such place and may be extended to accommodate the time necessary for such travel.

(c) In this section, the term “dependents” includes the dependents specified in paragraphs (1) and (2) of section 401(a) of this title. However, if no person qualifies under such paragraphs, the parents of a member (including stepparent or parent by adoption, or any person, including a former stepparent, who has stood in loco

parentis to the member at any time for a continuous period of at least 5 years before the member became 21 years of age) may be paid the travel and transportation allowances authorized under this section.

(Added Pub. L. 99-145, title VI, § 620(a)(1), Nov. 8, 1985, 99 Stat. 642; amended Pub. L. 100-456, div. A, title VI, § 632(b), Sept. 29, 1988, 102 Stat. 1986; Pub. L. 103-35, title II, § 204(a)(2), May 31, 1993, 107 Stat. 102.)

#### AMENDMENTS

1993—Subsec. (c). Pub. L. 103-35 substituted “section 401(a) of this title” for “section 401 of this title”.

1988—Subsec. (a). Pub. L. 100-456 substituted “or inactive duty in order that such dependents may” for “for a period of 30 days or more in order to”.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 632(c) of Pub. L. 100-456 provided that: “The amendments made by this section [amending this section and section 411h of this title] shall take effect on October 1, 1988.”

#### EFFECTIVE DATE

Section 620(b) of Pub. L. 99-145 provided that: “The travel and transportation allowance authorized by the amendments made by this section [enacting this section] is payable only for travel that commences after September 30, 1985.”

### § 411g. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who—

- (1) is stationed outside the United States; and
- (2) voluntarily agrees to extend his overseas tour of duty for a period equal to at least one-half of the overseas tour prescribed for his permanent duty station;

may be paid the transportation allowance described in subsection (b) for himself and each dependent who is authorized to, and does, accompany him.

(b) The transportation allowance authorized by subsection (a) is an allowance provided—

- (1) in connection with authorized leave; and
- (2) for the cost of transportation—

(A) from a member's permanent duty station to a place approved by the Secretary concerned and from that place to his permanent duty station; or

(B) from a member's permanent duty station to a place no farther distant than his home of record (if he is a member without dependents) and from that place to his permanent duty station.

(c) The transportation allowance authorized by subsection (a) may not be provided to an enlisted member who, with respect to an extension of duty described in subsection (a)—

- (1) elects to receive special pay under section 314 of this title for duty performed during such extension of duty; or
- (2) elects to receive rest and recuperative absence or transportation at Government expense, or any combination thereof, under section 705 of title 10 for such extension of duty.

(d) The authority under this section shall expire on October 1, 1989.

(Added Pub. L. 100-180, div. A, title VI, § 614(a)(1), Dec. 4, 1987, 101 Stat. 1093; amended Pub. L. 100-456, div. A, title VI, § 624(a), Sept. 29, 1988, 102 Stat. 1984; Pub. L. 101-189, div. A, title VI, § 653(c)(1), Nov. 29, 1989, 103 Stat. 1462.)

#### AMENDMENTS

1989—Subsec. (a). Pub. L. 101-189 struck out “to” after “may be paid” in concluding provisions.

1988—Subsec. (a). Pub. L. 100-456 substituted “may be paid” for “is entitled” in concluding provisions.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 624(b) of Pub. L. 100-456 provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to agreements to extend overseas tours of duty made on and after the date of the enactment of this Act [Sept. 29, 1988].”

#### EFFECTIVE DATE

Section 614(b) of Pub. L. 100-180 provided that: “Section 411g of title 37, United States Code, as added by subsection (a), shall apply with respect to agreements to extend overseas tours of duty made after the date of the enactment of this Act [Dec. 4, 1987].”

#### GAO REVIEW AND REPORT

Section 614(c) of Pub. L. 100-180 directed Comptroller General to review implementation of 37 U.S.C. 411g after it has been in effect for one year, for the purpose of comparing the total cost to the Department of Defense of the transportation allowance allowed under such section with the total cost that would have been incurred by the Department of Defense over such period if such section had not been in effect and to submit to Congress a report on such review no later than Mar. 1, 1989.

### § 411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members

(a)(1) Under uniform regulations prescribed by the Secretaries concerned, transportation described in subsection (c) may be provided for not more than two family members of a member described in paragraph (2) if the attending physician or surgeon and the commander or head of the military medical facility exercising military control over the member determine that the presence of the family member may contribute to the member's health and welfare.

(2) A member referred to in paragraph (1) is a member of the uniformed services who—

(A) is serving on active duty or is entitled to pay and allowances under section 204(g) of this title (or would be so entitled were it not for offsetting earned income described in that section);

(B) is seriously ill, seriously injured, or in a situation of imminent death, whether or not electrical brain activity still exists or brain death is declared; and

(C) is hospitalized in a medical facility in or outside the United States.

(b)(1) In this section, the term “family member”, with respect to a member, means—

- (A) the member's spouse;
- (B) children of the member (including stepchildren, adopted children, and illegitimate children);

(C) parents of the member or persons in loco parentis to the member, as provided in paragraph (2); and

(D) siblings of the member.

(2) Parents of a member or persons in loco parentis to a member include fathers and mothers through adoption and persons who stood in loco parentis to the member for a period not less than one year immediately before the member entered the uniformed service. However, only one father and one mother or their counterparts in loco parentis may be recognized in any one case.

(3) In this section, the term “health and welfare”, with respect to a member, includes a situation in which a decision must be made by family members regarding the termination of artificial life support being provided to the member.

(c) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member and the location of the medical facility in which the member is hospitalized.

(d)(1) The transportation authorized by subsection (a) may be provided by any of the following means:

(A) Transportation in-kind.

(B) A monetary allowance in place of transportation in-kind at a rate to be prescribed by the Secretaries concerned.

(C) Reimbursement for the commercial cost of transportation.

(2) An allowance payable under this subsection may be paid in advance.

(3) Reimbursement payable under this subsection may not exceed the cost of government-procured commercial round-trip air travel.

(Added Pub. L. 100-180, div. A, title VI, §615(a)(1), Dec. 4, 1987, 101 Stat. 1095; amended Pub. L. 100-456, div. A, title VI, §632(a), Sept. 29, 1988, 102 Stat. 1985; Pub. L. 103-337, div. A, title VI, §624, Oct. 5, 1994, 108 Stat. 2785.)

#### AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-337, §624(a)(1), substituted “may contribute to” for “is necessary for”.

Subsec. (a)(2)(B). Pub. L. 103-337, §624(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “is seriously ill or seriously injured; and”.

Subsec. (b)(3). Pub. L. 103-337, §624(b), added par. (3).

1988—Subsec. (a)(2). Pub. L. 100-456 amended par. (2) generally, inserting “or is entitled to pay and allowances under section 204(g) of this title (or would be so entitled were it not for offsetting earned income described in that section)” in subpar. (A).

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-456 effective Oct. 1, 1988, see section 632(c) of Pub. L. 100-456, set out as a note under section 411f of this title.

#### EFFECTIVE DATE

Section 615(b) of Pub. L. 100-180 provided that: “The authority to provide transportation or to pay transportation expenses under section 411h of title 37, United States Code, as added by subsection (a), shall be effective only with respect to travel that occurs on or after the effective date of regulations prescribed under such section.”

### § 412. Appropriations for travel: may not be used for attendance at certain meetings

Appropriations of the Department of Defense that are available for travel may not, without the approval of the Secretary concerned or his designee, be used for expenses incident to attendance of a member of an armed force under that department at a meeting of a technical, scientific, professional, or similar organization.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 476.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
412 .....	5:174a.	Aug. 1, 1953, ch. 305, §605, 67 Stat. 349.

The words “may not . . . be used” are substituted for the words “shall not be available”. The words “on and after August 1, 1953” are omitted as executed. The words “Secretary concerned” are substituted for the words “Secretary of the department concerned” to conform to other sections of this revised title and to the definition in section 101(5) of this revised title. So much of the source statute as relates to civilian employees is omitted as superseded by the Act of July 7, 1958, Pub. L. 85-507, 72 Stat. 327.

#### PRIOR PROVISIONS

Act Aug. 1, 1953, cited as the source of this section in the Historical and Revision Notes above, is known as the Department of Defense Appropriation Act, 1954. Similar provisions were contained in the following prior appropriation acts:

July 10, 1952, ch. 630, title VI, §606, 66 Stat. 531.

Oct. 18, 1951, ch. 512, title VI, §606, 65 Stat. 445.

Sept. 6, 1950, ch. 896, ch. X, title VI, §607, 64 Stat. 752.

Oct. 29, 1949, ch. 787, title VI, §607, 63 Stat. 1018.

June 24, 1948, ch. 632, 62 Stat. 652.

July 30, 1947, ch. 357, title I, 61 Stat. 554.

July 16, 1946, ch. 583, 60 Stat. 545.

July 3, 1945, ch. 265, 59 Stat. 388.

June 28, 1944, ch. 303, 58 Stat. 577.

### § 413. Chairman and Vice Chairman of the Joint Chiefs of Staff

The Chairman and Vice Chairman of the Joint Chiefs of Staff are entitled to the allowances provided by law for the Chief of Staff of the Army.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 100-180, div. A, title XIII, §1314(c)(1), Dec. 4, 1987, 101 Stat. 1176.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
413 .....	10:142(d) (less applicability to basic pay).	[None.]

#### AMENDMENTS

1987—Pub. L. 100-180, in amending section generally, in section catchline inserted “and Vice Chairman”, and in text inserted “and Vice Chairman” and substituted “are” for “is”.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Section 1314(e)(2) of Pub. L. 100-180 provided that: “The amendments made by subsections (c)(1), (d)(3), and (d)(4) [amending this section and provisions set out as notes under sections 431 and 1009 of this title] shall take effect as of October 1, 1986.”

**§ 414. Personal money allowance**

(a) In addition to other pay or allowances authorized by this title, an officer who is entitled to basic pay is entitled to a personal money allowance of—

(1) \$500 a year, while serving in the grade of lieutenant general or vice admiral, or in an equivalent grade or rank;

(2) \$1,200 a year, in place of any other personal money allowance authorized by this section while serving as Surgeon General of the Public Health Service;

(3) \$2,200 a year, in addition to the personal money allowance authorized by clause (1), while serving as a senior member of the Military Staff Committee of the United Nations;

(4) \$2,200 a year, while serving in the grade of general or admiral, or in an equivalent grade or rank; or

(5) \$4,000 a year, in place of any other personal money allowance authorized by this section, while serving as Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard.

(b) In addition to other pay or allowances authorized by law, an officer who is serving in one of the following positions is entitled to the amount set forth for that position, to be paid annually out of naval appropriations for pay, and to be spent in his discretion for the contingencies of his position—

(1) Superintendent of the Naval Postgraduate School—\$400;

(2) Commandant of Midshipmen at the Naval Academy—\$800;

(3) President of the Naval War College—\$1,000;

(4) Superintendent of the Naval Academy—\$5,200; and

(5) Director of Naval Intelligence—\$5,200.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 89-718, § 49(a)(2), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 102-25, title VII, § 702(b)(2), Apr. 6, 1991, 105 Stat. 117.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
414(a) .....	37:254.	Oct. 12, 1949, ch. 681, §304, 63 Stat. 816; Aug. 10, 1956, ch. 1041, §20(c), 70A Stat. 627; May 20, 1958, Pub. L. 85-422, §1(1), 72 Stat. 127; Sept. 14, 1961, Pub. L. 87-233, §3, 75 Stat. 507.
414(b) .....	37:257.	Aug. 2, 1946, ch. 756, §3, 60 Stat. 853.

In subsection (b), the words “pay or” are inserted to conform to subsection (a). The word “position” is substituted for the words “capacities” and “officers”, respectively. In clause (1), the words “Superintendent of the Naval Postgraduate School” are substituted for the words “Head of the Postgraduate school at the Naval Academy” to reflect present terminology.

AMENDMENTS

1991—Subsec. (a)(3). Pub. L. 102-25 struck out “of this subsection” after “clause (1)”.

1966—Subsec. (a)(2). Pub. L. 89-718 struck out reference to service as the Director of the Coast and Geodetic Survey.

TRANSFER OF FUNCTIONS

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

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1003 of this title.

**§ 415. Uniform allowance: officers; initial allowance**

(a) Subject to subsection (b), an officer of an armed force is entitled to an initial allowance of not more than \$200 as reimbursement for the purchase of required uniforms and equipment—

(1) upon first reporting for active duty (other than for training) for a period of more than 90 days;

(2) upon completing at least 14 days of active duty as a member of a reserve component;

(3) upon completing 14 periods, each of which was of at least two hours’ duration, of inactive-duty training as a member of the Ready Reserve; or

(4) upon reporting for the first period of active duty required by section 2121(c) of title 10 as a member of the Armed Forces Health Professions Scholarship program.

(b) An officer who has received an initial uniform reimbursement or allowance under any other law is not entitled to an initial allowance under subsection (a).

(c) An allowance of \$250 for uniforms and equipment may be paid to each commissioned officer of the Public Health Service who is—

(1) on active duty or on inactive duty training status; and

(2) required by directive of the Surgeon General to wear a uniform.

An officer is not entitled to more than one allowance under this subsection.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 477; Pub. L. 88-647, title II, §202(3), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-444, §2(1), June 9, 1966, 80 Stat. 198; Pub. L. 89-718, §63, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-83, §5(1), Sept. 11, 1967, 81 Stat. 221; Pub. L. 91-278, §3(3), June 12, 1970, 84 Stat. 306; Pub. L. 96-76, title III, §313(c), Sept. 29, 1979, 93 Stat. 586; Pub. L. 96-513, title IV, §412, Dec. 12, 1980, 94 Stat. 2905; Pub. L. 97-22, §10(c), July 10, 1981, 95 Stat. 137; Pub. L. 97-60, title I, §131(a), Oct. 14, 1981, 95 Stat. 1005; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
415(a) .....	37:255(a) (less provisos).	Oct. 12, 1949, ch. 681, §305(a) (less 1st proviso); added Aug. 10, 1956, ch. 1041, §20(d) (1st par., less 1st proviso), 70A Stat. 628.
415(b) .....	37:255(a) (2d proviso).	July 1, 1944, ch. 373, §213; restated Apr. 27, 1956, ch. 211, §2(a), 70 Stat. 116.
415(c) .....	37:255(a) (last proviso).	Oct. 12, 1949, ch. 681, §306; added Aug. 10, 1956, ch. 1041, §20(d) (last par.), 70A Stat. 629.
415(d) .....	42:214.	Aug. 7, 1947, ch. 512, §302(f), 61 Stat. 830.
415(e) .....	37:256.  [Uncodified.]	

In subsection (a), the words "Subject to subsections (b) and (c) of this section," are inserted for clarity. The words "of an armed force" are inserted, since the source section, as originally enacted, did not apply to the Public Health Service or the Coast and Geodetic Survey. (See section 243 of the Armed Forces Reserve Act of 1952 (66 Stat. 492).) The words "of the Army, or the Air Force, without specification of component" are inserted to reflect the definition of "reserve component" in section 102(k) of the source statute. That definition is executed throughout this revised title. For that reason, the words "but not as a member of the Army without specification of component or the Air Force without specification of component, in section 255(a)(2) of existing title 37", are omitted, and since those categories are excluded by the words "member of a reserve component". The words "of a reserve component", in section 255(a)(3) of existing title 37, are omitted, since the Ready Reserve cannot be in anything other than a reserve component.

In subsection (b), the words "heretofore or hereafter" are omitted as surplusage.

In subsection (c), the words "An officer" are substituted for the words "any individual", since the revised section applies only to officers.

In subsection (d), the words "who is in pay grade O-1, O-2, or O-3" are substituted for the words "is receiving the pay of the junior assistant, assistant, or senior assistant grade" to reflect current terminology. (See chapter 3 of this revised title.) The last sentence is substituted for section 214 (words following semicolon) of title 14.

In subsection (e), the words "as a temporary officer" are inserted for clarity. The words "5596 or" are substituted for section 302(f) of the Act of August 7, 1947, cited above.

## AMENDMENTS

1991—Subsecs. (a), (b). Pub. L. 102-25 struck out "of this section".

1981—Subsec. (a). Pub. L. 97-22 substituted "subsection (b) of this section" for "subsections (b) and (c) of this section".

Subsec. (a)(4). Pub. L. 97-60 added par. (4).

1980—Subsec. (a). Pub. L. 96-513, §412(1), (2), substituted "an officer of an armed force is entitled" for "a reserve officer of an armed force, an officer of the Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106 or 2107 of title 10 is entitled".

Subsecs. (c), (d). Pub. L. 96-513, §412(3), (4), redesignated subsec. (d) as (c). Former subsec. (c), relating to limitations on qualifications for initial allowances by certain officers, was struck out.

Subsec. (e). Pub. L. 96-513, §412(3), struck out subsec. (e) relating to uniform allowances for temporary officers or warrant officers.

1979—Subsec. (d). Pub. L. 96-76 in cl. (1) inserted provisions for applicability to officers on inactive duty training status, and struck out cl. (3) setting forth applicability to officers entitled to basic pay of pay grade O-1, O-2, or O-3.

1970—Subsec. (e). Pub. L. 91-278 provided for entitlement to uniform allowance of enlisted member appointed a warrant officer under section 213 of title 14.

1967—Subsec. (d)(3). Pub. L. 90-83 substituted "entitled to the basic pay" for "is entitled to the basic pay".

1966—Subsec. (a). Pub. L. 89-718 struck out ", United States Code," after "title 10".

Subsec. (e). Pub. L. 89-444 substituted "section 214 of title 14" for "section 435 of title 14".

1964—Subsec. (a). Pub. L. 88-647 included a regular officer of an armed force appointed under section 2106 or 2107 of title 10.

## EFFECTIVE DATE OF 1981 AMENDMENT

Section 10(c) of Pub. L. 97-22 provided that the amendment made by that section is effective Sept. 15, 1981.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by section 412 of Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 1979 AMENDMENT

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

## TRANSFER OF FUNCTIONS

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

## CROSS REFERENCES

Duty for which officer is required to wear uniform as only duty counted for purposes of this section, see section 417 of this title.

Regulations to carry out section, see section 417 of this title.

Uniform and equipment reimbursement upon transfer to, or appointment in, another reserve component, see section 417 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 416, 417, 907 of this title.

**§ 416. Uniform allowance: officers; additional allowances**

(a) In addition to the allowance provided by section 415 of this title, a reserve officer of an armed force, an officer of the Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106 or 2107 of title 10 is entitled to not more than \$100 as reimbursement for additional uniforms and equipment required on that duty, for each time that the officer enters on active duty for a period of more than 90 days.

(b) Subsection (a) does not apply to a tour of active duty if—

(1) the officer, during that tour or within a period of two years before entering on that tour, received, under any law, an initial uni-

form reimbursement or allowance of more than \$200; or

(2) the officer enters on that tour within two years after completing a period of active duty of more than 90 days' duration.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 477; Pub. L. 88-624, §1, Oct. 3, 1964, 78 Stat. 1002; Pub. L. 88-647, title II, §202(3), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-718, §63, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 96-513, title V, §516(13), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 101-189, div. A, title VI, §663(a), Nov. 29, 1989, 103 Stat. 1465.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
416(a) .....	37:255(b).	Oct. 12, 1949, ch. 681, §305(b), (c); added Aug. 10, 1956, ch. 1041, §20(d) (2d and 3d pars.), 70A Stat. 628; Sept. 2, 1958, Pub. L. 85-861, §33(f), 72 Stat. 1568.
416(b) .....	37:255(c).	

In subsection (a), the words "In addition to the initial uniform allowance authorized by section 431 (a)-(d) of this title" are substituted for the word "additional". Section 255(b) (last proviso of 1st sentence) of existing title 37 is omitted as executed. The words "may not be included" are substituted for the words "shall be excluded". Section 255(b) (last sentence) of existing title 37 is omitted, since the categories named therein are excluded by the words "a reserve officer". (See revision note for section 415(a) of this revised title.)

In subsection (b), the introductory clause is substituted for the word "further". The words "of an armed force" and "of the Army, or the Air Force, without specification of component" are inserted for the reasons stated in the revision note for section 415(a) of this revised title. Clauses (1) and (2) are substituted for section 255(c) (provisos) of existing title 37.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-189 redesignated first sentence of subsec. (b) as (a), substituted "section 415 of this title" for "section 415(a)-(c) of this title and subsection (a) of this section" and "the officer" for "he", and struck out former subsec. (a) which read as follows: "In addition to the initial uniform allowance authorized by section 415(a)-(c) of this title, a reserve officer of an armed force who has not become entitled to a uniform reimbursement or allowance as an officer during the preceding four years, is entitled to not more than \$50 as reimbursement for the purchase of required uniforms and equipment, upon completion of each period, after July 9, 1952, of four years of service, as prescribed by section 1332(a)(2) of title 10, in an active status in one or more reserve components, including at least 28 days of active duty. However, periods of active duty of more than 90 days may not be included in computing that four years of service."

Subsec. (b). Pub. L. 101-189 redesignated first sentence of subsec. (b) as (a) and in remaining provisions of subsec. (b) substituted "Subsection (a) does not apply" for "However, this subsection does not apply".

1980—Pub. L. 96-513 substituted "additional allowances" for "additional allowance" in section catchline.

1966—Subsec. (b). Pub. L. 89-718 struck out "United States Code," after "title 10".

1964—Subsec. (a). Pub. L. 88-624 substituted "in one or more reserve components" for "in a reserve component" and "section 1332(a)(2)" for "section 1332".

Subsec. (b). Pub. L. 88-647 included a regular officer of an armed force appointed under section 2106 or 2107 of title 10.

EFFECTIVE DATE OF 1980 AMENDMENT

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

SAVE PAY PROVISION

Section 663(b) of Pub. L. 101-189 provided that: "An officer of an armed force who, but for the amendments made by subsection (a) [amending this section], would have become entitled to a uniform reimbursement under section 416(a) of title 37, United States Code, before the end of the one-year period beginning on the date of the enactment of this Act [Nov. 29, 1989] shall be entitled (during such one-year period) to receive such reimbursement under such section as in effect on the day before the date of the enactment of this Act."

ALLOWANCE FOR SERVICE PRIOR TO OCTOBER 3, 1964

Section 2 of Pub. L. 88-624 provided that: "The amendments made by this Act [amending this section] do not entitle an officer to an allowance for any 4-year period of service completed prior to the effective date of this Act [Oct. 3, 1964]."

CROSS REFERENCES

Duty for which officer is required to wear uniform as only duty counted for purposes of this section, see section 417 of this title.

Regulations to carry out section, see section 417 of this title.

Uniform and equipment reimbursement upon transfer to, or appointment in, another reserve component, see section 417 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 417 of this title.

**§ 417. Uniform allowance: officers; general provisions**

(a) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department may prescribe regulations that he considers necessary to carry out sections 415(a)-(c) and 416 of this title within his department. The Secretary of Transportation, with the concurrence of the Secretary of the Navy, may prescribe regulations that he considers necessary to carry out those sections for the Coast Guard when it is not operating as a service in the Navy. As far as practicable, regulations for all reserve components shall be uniform.

(b) Under regulations approved by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, and subject to section 415(a)-(c) or 416 of this title, a reserve officer of an armed force who has received a uniform and equipment allowance under section 415(a)-(c) or 416 of this title, may if a different uniform is required, be paid a uniform and equipment reimbursement upon transfer to, or appointment in, another reserve component.

(c) For the purposes of sections 415(a)-(c) and 416 of this title and subsections (a) and (b), an officer may count only that duty for which he is required to wear a uniform.

(d)(1) For purposes of sections 415 and 416 of this title, a period for which an officer of an armed force, while employed as a National Guard technician, is required to wear a uniform

under section 709(b) of title 32 shall be treated as a period of active duty (other than for training).

(2) A uniform allowance may not be paid, and uniforms may not be furnished, to an officer under section 1593 of title 10 or section 5901 of title 5 for a period of employment referred to in paragraph (1) for which an officer is paid a uniform allowance under section 415 or 416 of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 478; Pub. L. 90-623, §3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title X, §1038(b), Feb. 10, 1996, 110 Stat. 432.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
417(a) .....	37:255(e).	Oct. 12, 1949, ch. 681, §305 (1st proviso of (a)), (d), (e); added Aug. 10, 1956, ch. 1041, §20(d) (1st proviso of 1st par., 4th par., and 5th par.), 70A Stat. 629.
417(b) .....	37:255(d).	
417(c) .....	37:255(a) (1st proviso).	

In subsection (a), the words “within that department” are inserted for clarity. The words “may prescribe” are substituted for the words “shall prescribe”, since the words “that he considers necessary” indicate that the prescribing of regulations is not mandatory.

Subsection (b) is substituted for section 255(d) (less last sentence) of existing title 37. Section 255(d) last sentence) of existing title 37 is omitted, since the categories named therein are excluded by the words “a reserve officer”. (See revision note for section 415(a) of this revised title.)

#### AMENDMENTS

1996—Subsec. (d). Pub. L. 104-106 added subsec. (d).  
 1991—Subsec. (c). Pub. L. 102-25 struck out “of this section” after “subsections (a) and (b)”.  
 1968—Subsecs. (a), (b). Pub. L. 90-623 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

#### EFFECTIVE DATE OF 1968 AMENDMENT

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

### § 418. Clothing allowance: enlisted members

(a) The President may prescribe the quantity and kind of clothing to be furnished annually to an enlisted member of the armed forces or the National Guard, and may prescribe the amount of a cash allowance to be paid to such a member if clothing is not so furnished to him.

(b) In determining the quantity and kind of clothing or allowances to be furnished pursuant to regulations prescribed under this section to persons employed as National Guard technicians under section 709 of title 32, the President shall take into account the requirement under subsection (b) of such section for such persons to wear a uniform.

(c) A uniform allowance may not be paid, and uniforms may not be furnished, under section 1593 of title 10 or section 5901 of title 5 to a person referred to in subsection (b) for a period of employment referred to in that subsection for which clothing is furnished or a uniform allowance is paid under this section.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 478; Pub. L. 104-106, div. A, title X, §1038(c), Feb. 10, 1996, 110 Stat. 432; Pub. L. 104-201, div. A, title VI, §654, Sept. 23, 1996, 110 Stat. 2583.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
418 .....	37:305.	Oct. 12, 1949, ch. 681, §505, 63 Stat. 828.

The words “the armed forces” are substituted for the words “the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard” to conform to the definition in section 101(4) of this title. The words “the Naval Reserve, the Marine Corps Reserve, . . . the National Guard of the United States, the Air National Guard of the United States, the Army Reserve, the Air Force Reserve, and the Coast Guard Reserve” are omitted, since, under the definitions of the armed forces concerned in sections 3062(c), 5001(a)(1) and (2), and 8062(d) of title 10, and section 751a of title 14, those organizations, or their successors, are components of the armed force concerned.

#### AMENDMENTS

1996—Pub. L. 104-106 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

Subsec. (c). Pub. L. 104-201 substituted “for which clothing is furnished or a uniform allowance is paid under this section” for “for which a uniform allowance is paid under section 415 or 416 of this title”.

#### EX. ORD. NO. 10113. CLOTHING ALLOWANCES FOR ENLISTED PERSONNEL

Ex. Ord. No. 10113, Feb. 24, 1950, 15 F.R. 1065, provided: By virtue of the authority vested in me as President of the United States and as Commander in Chief of the armed forces, it is ordered as follows:

1. The Secretary of Defense with respect to enlisted men of the Army, the Navy, the Air Force, the Marine Corps, the Naval Reserve, the Marine Corps Reserve, the National Guard, the Air National Guard, the National Guard of the United States, the Air National Guard of the United States, the Organized Reserve Corps [Army Reserve] and the Air Force Reserve, and the Secretary of the Treasury with respect to enlisted men of the Coast Guard and the Coast Guard Reserve, are hereby authorized and directed, after appropriate consultation with the Director of the Bureau of the Budget [now Director of the Office of Management and Budget], to perform the functions vested in the President by section 505 of the Career Compensation Act of 1949, approved October 12, 1949 (Public Law 351, 81st Congress) [this section], relative to prescribing the quantity and kind of clothing which shall be furnished annually to enlisted men of the aforesaid services and relative to prescribing the amount of the cash allowance to be paid to such enlisted men in any case in which clothing is not so furnished to them.

2. The quantity and kind of clothing, and any cash allowances in lieu thereof, prescribed by the Secretary of the Treasury hereunder with respect to the Coast Guard and the Coast Guard Reserve shall, so far as practicable, be in conformity with those prescribed by the Secretary of Defense with respect to the Navy and Naval Reserve, respectively.

3. Existing regulations prescribing the quantity and kind of clothing furnished, and any cash allowances in lieu thereof, shall remain in effect until modified, revoked, or superseded by action taken pursuant to this order.

4. The term “enlisted men” as used in this order shall be deemed to apply to enlisted persons of either sex.

5. This order shall become effective on April 1, 1950, and on that date shall supersede Executive Order No. 10049 [Apr. 4, 1949, 14 F.R. 1563] entitled “Delegating the

Authority of the President to Prescribe Clothing Allowances, and Cash Allowances in Lieu Thereof, to Enlisted Men in the Armed Forces.”

SECTION REFERRED TO IN OTHER SECTIONS

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

**§ 419. Civilian clothing allowance**

Under regulations prescribed by the Secretary of Defense, an officer of an armed force who is assigned to a permanent duty station at a location outside the United States may be paid a civilian clothing allowance in such amount as the Secretary shall determine under regulations if such officer is required to wear civilian clothing all or a substantial portion of the time in the performance of the officer’s official duties. A clothing allowance under this section is in addition to any uniform allowance to which an officer is otherwise entitled under this title.

(Added Pub. L. 100-180, div. A, title VI, §611(a)(1)(B), Dec. 4, 1987, 101 Stat. 1093; amended Pub. L. 100-456, div. A, title VI, §625, Sept. 29, 1988, 102 Stat. 1984; Pub. L. 101-189, div. A, title VI, §653(c)(2), Nov. 29, 1989, 103 Stat. 1462.)

PRIOR PROVISIONS

A prior section 419 was renumbered section 420 of this title.

AMENDMENTS

1989—Pub. L. 101-189 substituted “an officer” for “a officer” in two places and struck out “to” after “may be paid”.

1988—Pub. L. 100-456 substituted “officer” for “member” in three places, “may be paid” for “is entitled”, and “officer’s” for “member’s”.

EFFECTIVE DATE

Section 611(b) of Pub. L. 100-180 provided that: “Section 419 of title 37, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Dec. 4, 1987]. No member may be paid a clothing allowance under such section for any period before such date.”

**§ 420. Allowances while participating in international sports**

(a) Section 717 of title 10 does not authorize the payment of allowances at higher rates than those provided for participation in military activities not covered by that section.

(b) Notwithstanding any other law, a member of a uniformed service is not entitled to travel and transportation allowances under sections 404-411 of this title for any period during which his expenses for travel or transportation are being paid by the agency sponsoring his participation in a competition covered by section 717 of title 10.

(c) Notwithstanding any other law, a member of a uniformed service who has no dependents is not entitled to the basic allowances for subsistence and housing authorized by sections 402 and 403 of this title for a period during which he is subsisted and quartered by the agency sponsoring his participation in a competition covered by section 717 of title 10.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 478, §419; Pub. L. 89-718, §64, Nov. 2, 1966, 80 Stat. 1123; re-

numbered § 420, Pub. L. 100-180, div. A, title VI, §611(a)(1)(A), Dec. 4, 1987, 101 Stat. 1093; Pub. L. 105-85, div. A, title VI, §603(d)(1)(C), Nov. 18, 1997, 111 Stat. 1782.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
419(a) .....	37:256a(a).	Oct. 12, 1949, ch. 681, §307; added Sept. 2, 1958, Pub. L. 85-861, §11, 72 Stat. 1556.
419(b) .....	37:256a(b).	
419(c) .....	37:256a(c).	

PRIOR PROVISIONS

A prior section 420 was renumbered section 421 of this title.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105-85 substituted “housing” for “quarters”.

1966—Pub. L. 89-718 substituted “section 717 of title 10” for “section 716 of title 10” wherever appearing.

EFFECTIVE DATE OF 1997 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 406c of this title.

**§ 421. Allowances: no increase while dependent is entitled to basic pay**

A member of a uniformed service may not be paid an increased allowance under this chapter, on account of a dependent, for any period during which that dependent is entitled to basic pay under section 204 of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479, §420; renumbered §421, Pub. L. 100-180, div. A, title VI, §611(a)(1)(A), Dec. 4, 1987, 101 Stat. 1093.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
420 .....	37:231(g) (last proviso of last sentence).	Oct. 12, 1949, ch. 681, §102(g) (last proviso of last sentence), 63 Stat. 805.

The words “of a uniformed service” are inserted for clarity. The words “claiming a dependent as defined in this subsection” are omitted as surplusage. The words “under section 204 of this title” are substituted for the words “for the performance of duty as defined in section 232(e) of this revised title”.

PRIOR PROVISIONS

A prior section 421, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479; Pub. L. 88-132, §3(b), Oct. 2, 1963, 77 Stat. 212, provided for pay and allowances of contract surgeons, prior to repeal by Pub. L. 98-94, title IX, §932(e)(1), Sept. 24, 1983, 97 Stat. 650, eff. Oct. 1, 1983. See section 1091 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403, 406b, 427 of this title.

**§ 422. Cadets and midshipmen**

(a) A cadet at the United States Military Academy, the United States Air Force Academy,



or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to the allowances provided by law for a midshipman in the Navy, and to travel and transportation allowances prescribed under section 410 of this title while traveling under orders as a cadet or midshipman.

(b) Each midshipman of the Navy to whom a Navy ration is not furnished is entitled to the commuted value of the ration in money for each day that he is on active duty, including each day that he is on leave. The Secretary of the Navy may prescribe regulations stating the conditions under which the commuted value shall be allowed and may prescribe regulations establishing the rates at which the ration shall be commuted.

(c) A cadet or midshipman appointed under section 2107 of title 10 is entitled to the same allowances as are provided for cadets and midshipmen at the United States Military, Naval, and Air Force Academies for—

- (1) initial travel to the educational institution in which matriculated;
- (2) travel while under orders; and
- (3) travel on discharge.

However, no allowance for travel on discharge may be paid to a discharged cadet or midshipman who continues his scholastic instruction at the same educational institution.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479; Pub. L. 88-647, title II, §202(4), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-718, §63, Nov. 2, 1966, 80 Stat. 1123.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
422(a) .....	37:308 (less applicability to pay).	Oct. 12, 1949, ch. 681, §508 (less applicability to pay), 63 Stat. 828.
422(b) .....	10:6081(b) (9th through 17th words). 10:6081(c) (16th through 19th words).	[None.]
422(c) .....	10:6904(c). 10:6905(c).	[None.]
422(d) .....	10:6906(c) (1st sentence, less applicability to pay).	[None.]

In subsection (a), the words “prescribed under section 410 of this title” are inserted to reflect that revised section.

#### AMENDMENTS

1966—Subsec. (c). Pub. L. 89-718 struck out “, United States Code,” after “title 10”.

1964—Subsec. (c). Pub. L. 88-647, §202(4)(A), (B), among other changes, substituted provisions relating to a cadet or midshipman appointed under section 2107 of title 10, for provisions relating to a midshipman appointed under section 6904 of title 10, or a seaman recruit enlisted under section 6905 of title 10, and “educational institution” for “college or university”, in text, and “Cadets and midshipmen” for “Cadets, midshipmen, and naval officer candidates”, in section catchline.

Subsec. (d). Pub. L. 88-647, §202(4)(C), struck out subsec. (d) which entitled a midshipman under section 6906 of title 10, while on flight training or duty, to the allowances of a midshipman at the United States Naval Academy.

#### § 423. Validity of allowance payments based on purported marriages

A payment of an allowance, based on a purported marriage, that is made under this chapter, under the Career Compensation Act of 1949, or under the Pay Readjustment Act of 1942, before judicial annulment or termination of that marriage, is valid, if a court of competent jurisdiction adjudges or decrees that the marriage was entered into in good faith on the part of the spouse who is a member of a uniformed service or if, in the absence of such a judgment or decree, such a finding of good faith is made by the Secretary concerned or by a person designated by him to investigate the matter.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
423 .....	37:303.	Oct. 12, 1949, ch. 681, §503, 63 Stat. 827.

The words “or which hereafter may be” are omitted as surplusage. The words “a person designated by him to investigate the matter” are substituted for the words “such person as he may designate for the purpose”.

#### REFERENCES IN TEXT

The Career Compensation Act of 1949, referred to in text, is act Oct. 12, 1949, ch. 681, 63 Stat. 802, which was classified principally to chapter 4 (§231 et seq.) of former Title 37, Pay and Allowances, prior to the revision and reenactment of Title 37 by Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 451. For distribution of sections of chapter 4 of former Title 37, see Table preceding section 101 of this title.

The Pay Readjustment Act of 1942, referred to in text, is act June 16, 1942, ch. 413, 56 Stat. 359, which was classified principally to chapter 2 (§101 et seq.) of former Title 37, Pay and Allowances, prior to the revision and reenactment of title 37 by Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 451. For distribution of sections of chapter 2 of former title 37, see Table preceding section 101 of this title.

#### § 424. Band leaders

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

(b) The leader of the United State Navy Band is entitled to the allowances of a lieutenant of the Navy.

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

(d) The leader of the Naval Academy Band is entitled to the allowances of the pay grade prescribed for him by the Secretary of Navy under section 207(e) of this title. The second leader is entitled to the allowances of a warrant officer, W-1.

(e) The director of the Coast Guard Band is entitled to the allowances of an officer in the grade in which he is serving. However, his allow-

ances may not be less than those to which he was entitled at the time of his appointment as director.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480; Pub. L. 89-189, § 3, Sept. 17, 1965, 79 Stat. 820; Pub. L. 95-551, § 3(b)(2), Oct. 30, 1978, 92 Stat. 2069.)

HISTORICAL AND REVISION NOTES

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

AMENDMENTS

1978—Subsecs. (b) to (f). Pub. L. 95-551 redesignated subsec. (c) to (f) as (b) to (e), respectively. Former subsec. (b), which provided that the director of music at the United States Military Academy be entitled to allowances of a commissioned officer of the rank prescribed for the director by the Secretary of the Army, was struck out.

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

**§ 425. United States Navy Band; United States Marine Corps Band: allowances while on concert tour**

While on concert tours approved by the President, the members of the United States Navy Band and the United States Marine Corps Band do not forfeit allowances.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
425 .....	10:6224.	[None.]

The words “do not forfeit” are substituted for the words “lose no” for clarity.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(14) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

**[§ 426. Repealed. Pub. L. 90-377, § 10, July 5, 1968, 82 Stat. 288]**

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480, provided for payment to persons confined in a naval confinement facility under sentence of a court-martial of not more than \$3 a month for necessary expenses, such payments to be made from appropriations for pay of Navy or Marine Corps.

**§ 427. Family separation allowance**

(a) ENTITLEMENT TO ALLOWANCE.—(1) In addition to any allowance or per diem to which he otherwise may be entitled under this title a member of a uniformed service with dependents is entitled to a monthly allowance equal to \$100 if—

(A) the movement of his dependents to his permanent station or a place near that station

is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station;

(B) he is on duty on board a ship away from the home port of the ship for a continuous period of more than 30 days; or

(C) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

(2) A member who becomes entitled to an allowance under this subsection by virtue of duty prescribed in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the earlier of—

(A) the first day of that period; or

(B) the first day the member ceased being entitled to a previous allowance under this subsection by reason of the end of duty prescribed in such subparagraphs, if the member ceased being entitled to the previous allowance within 30 days before the first day of that period.

(b) ENTITLEMENT WHEN NO RESIDENCE OR HOUSEHOLD MAINTAINED FOR DEPENDENTS.—An allowance is payable under subsection (a) even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management and control, which he is likely to share with them as a common household when his duty assignment permits.

(c) EFFECT OF ELECTION TO SERVE UNACCOMPANIED TOUR OF DUTY.—A member who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under subsection (a)(1)(A). The Secretary concerned may waive the preceding sentence in situations in which it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances.

(d) ENTITLEMENT WHILE SPOUSE ENTITLED TO BASIC PAY.—A member married to another member of the uniformed services becomes entitled, regardless of any other dependency status, to an allowance under subsection (a) by virtue of duty prescribed in subparagraph (A), (B), or (C) of paragraph (1) of such subsection if the members were residing together immediately before being separated by reasons of execution of military orders. Section 421 of this title does not apply to bar the entitlement to an allowance under this section. However, not more than one monthly allowance may be paid with respect to a married couple under this section.

(Added Pub. L. 88-132, § 11(1), Oct. 2, 1963, 77 Stat. 217; amended Pub. L. 91-529, § 1, Dec. 3, 1970, 84 Stat. 1389; Pub. L. 91-533, § 1, Dec. 7, 1970, 84 Stat. 1392; Pub. L. 96-342, title VIII, § 809(a), Sept. 8, 1980, 94 Stat. 1097; Pub. L. 99-145, title VI, § 607(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99-661, div. A, title VI, § 618(a), Nov. 14, 1986, 100 Stat. 3880; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title

VI, §§ 611(b), 625, Dec. 5, 1991, 105 Stat. 1376, 1379; Pub. L. 103-337, div. A, title VI, § 625(a), Oct. 5, 1994, 108 Stat. 2785; Pub. L. 104-106, div. A, title VI, § 606, Feb. 10, 1996, 110 Stat. 358; Pub. L. 104-201, div. A, title VI, § 607, Sept. 23, 1996, 110 Stat. 2542; Pub. L. 105-85, div. A, title VI, §§ 603(c)(3), 626, Nov. 18, 1997, 111 Stat. 1781, 1795.)

## AMENDMENTS

1997—Subsec. (a). Pub. L. 105-85, § 603(c)(3)(B)(i), redesignated subsec. (b)(1), (2) as subsec. (a)(1), (2), respectively, and inserted subsec. heading.

Pub. L. 105-85, § 603(c)(3)(A), struck out heading and text of subsec. (a). Text read as follows: "In addition to any allowance or per diem to which he otherwise may be entitled under this title, a member of a uniformed service with dependents who is on permanent duty outside of the United States, or in Alaska, is entitled to a monthly allowance equal to the basic allowance for quarters payable to a member without dependents in the same pay grade if—

"(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station; and

"(2) quarters of the United States or a housing facility under the jurisdiction of a uniformed service are not available for assignment to him."

Subsec. (a)(1). Pub. L. 105-85, § 626, substituted "\$100" for "\$75" in introductory provisions.

Pub. L. 105-85, § 603(c)(3)(B)(ii), struck out ", including subsection (a)," after "under this title" in introductory provisions, inserted "or" at end of subpar. (B), substituted "station." for "station; or" at end of subpar. (C), and struck out subpar. (D) which read as follows: "the member is married to a member of a uniformed service, the member has no dependent other than the spouse, the two members are separated by reason of the execution of military orders, and the two members were residing together immediately before being separated by reason of execution of military orders."

Subsec. (b). Pub. L. 105-85, § 603(c)(3)(B)(iii), redesignated subsec. (b)(3) as subsec. (b), inserted heading, and substituted "subsection (a)" for "this subsection". Former subsec. (b)(1), (2), and (4) redesignated subsecs. (a)(1), (2), and (c), respectively.

Subsec. (b)(5). Pub. L. 105-85, § 603(c)(3)(B)(v), struck out par. (5) which read as follows: "Section 421 of this title does not apply to bar an entitlement to an allowance under paragraph (1)(D). However, not more than one monthly allowance may be paid with respect to a married couple under paragraph (1)(D) for any month."

Subsec. (c). Pub. L. 105-85, § 603(c)(3)(B)(iv), redesignated subsec. (b)(4) as subsec. (c), inserted heading, and substituted "subsection (a)(1)(A)" for "paragraph (1)(A) of this subsection".

Subsec. (d). Pub. L. 105-85, § 603(c)(3)(B)(v), added subsec. (d).

1996—Subsec. (b)(1)(D). Pub. L. 104-201, § 607(a), added subpar. (D).

Subsec. (b)(4). Pub. L. 104-106 inserted "paragraph (1)(A) of" after "not entitled to an allowance under".

Subsec. (b)(5). Pub. L. 104-201, § 607(b), added par. (5).

1994—Subsec. (b)(2). Pub. L. 103-337, § 625(a)(3), added par. (2). Former par. (2) redesignated (3).

Pub. L. 103-337, § 625(a)(1), struck out at beginning "A member who becomes entitled to an allowance under this subsection by virtue of duty described in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the first day of that period."

Subsec. (b)(3), (4). Pub. L. 103-337, § 625(a)(2), redesignated pars. (2) and (3) as (3) and (4), respectively.

1991—Subsec. (a). Pub. L. 102-190, § 625(b)(1), inserted heading.

Subsec. (b). Pub. L. 102-190, § 625(b)(2), inserted heading.

Subsec. (b)(1). Pub. L. 102-190, § 625(a), substituted "\$75" for "\$60".

Pub. L. 102-190, § 611(b), substituted "In" for "Except in time of war or of national emergency hereafter declared by Congress, and in".

Pub. L. 102-25 struck out "of this section" after "subsection (a)".

1986—Subsec. (b). Pub. L. 99-661, § 618(a), designated existing provisions as pars. (1) and (2), in par. (1) redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and in par. (2) substituted "subparagraph (B) or (C) of paragraph (1)" for "clause (2) or (3)", and added par. (3).

1985—Subsec. (b). Pub. L. 99-145 substituted "\$60" for "\$30".

1980—Subsec. (b). Pub. L. 96-342 struck out "(other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years' or less service))" after "a member of a uniformed service with dependents".

1970—Subsec. (b). Pub. L. 91-533 struck out "who is entitled to a basic allowance for quarters" after "(4 years' or less service)".

Pub. L. 91-529 inserted provisions authorizing payment of an allowance under this subsection even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management or control, which he is likely to share with them as a common household when his duty assignment permits.

## EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 603(c)(3) of Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

## EFFECTIVE DATE OF 1994 AMENDMENT

Section 625(b) of Pub. L. 103-337 provided that: "The amendments made by subsection (a) [amending this section] shall take effect as of June 20, 1994."

## EFFECTIVE DATE OF 1985 AMENDMENT

Section 607(b) of Pub. L. 99-145 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1985, and shall apply only to family separation allowances payable for months beginning on or after that date."

## EFFECTIVE DATE OF 1980 AMENDMENT

Section 809(b) of Pub. L. 96-342 provided that: "The amendment made by subsection (a) [amending this section] shall take effect with respect to months after September 1980."

## EFFECTIVE DATE OF 1970 AMENDMENTS

Section 2 of Pub. L. 91-533 provided that: "The amendment made by this Act [amending this section] shall take effect on the first day of the first calendar month which occurs after the date of the enactment of this Act [Dec. 7, 1970]."

Section 2 of Pub. L. 91-529 provided that: "Section 1 of this Act [amending this section] is effective October 1, 1963."

## EFFECTIVE DATE

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

## SAVINGS PROVISION

Section 618(b) of Pub. L. 99-661 provided that: "Notwithstanding the amendments made by subsection (a) [amending this section], a member who on September 30, 1986, was assigned to a permanent station to which

the movement of his dependents was authorized at the expense of the United States under section 406 of title 37, United States Code, and who elected to serve a tour of duty at that station unaccompanied by his dependents, shall, until he departs that station as a result of a change of permanent station, be entitled to receive the allowance authorized by section 427(b) of such title without regard to paragraph (3) [now (4)] of such section, as added by subsection (a)."

TEMPORARY INCREASE IN FAMILY SEPARATION ALLOWANCE; PERSIAN GULF CONFLICT

Section 302 of Pub. L. 102-25 provided that:

"(a) INCREASED RATE.—In lieu of the family separation allowance specified in section 427(b)(1) of title 37, United States Code, the family separation allowance payable under that section shall be \$75 for each month during the period described in subsection (b).

"(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on January 15, 1991, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict."

FAMILY SEPARATION ALLOWANCE FOR MEMBERS IN MISSING STATUS DURING THE VIETNAM CONFLICT

Pub. L. 91-534, Dec. 7, 1970, 84 Stat. 1392, provided: "That, under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service with dependents who is in a missing status (as defined in section 551(2) of title 37 United States Code) during the Vietnam conflict and is not entitled to an allowance under section 427(b) of title 37 may be paid a monthly allowance equal to \$30. For the purposes of this Act, the Vietnam conflict ends on the date designated by the President by Executive order as the date of the termination of combat activities in Vietnam.

"SEC. 2. This Act takes effect on the first day of the first month which begins after the date of enactment of this Act [Dec. 7, 1970]."

**§ 428. Allowance for recruiting expenses**

In addition to other pay or allowances authorized by law, and under uniform regulations prescribed by the Secretaries concerned, a member who is assigned to recruiting duties for his armed force may be reimbursed for actual and necessary expenses incurred in connection with those duties.

(Added Pub. L. 92-129, title II, §205(a), Sept. 28, 1971, 85 Stat. 359.)

EFFECTIVE DATE

Section effective Oct. 1, 1971, see section 209 of Pub. L. 92-129, set out as a note under section 302a of this title.

PAY CONTINUATION

Enactment of this section not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note under section 203 of this title.

**§ 429. Travel and transportation allowances: minor dependent schooling**

Under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service whose permanent station is outside the United States may be allowed transportation in kind for any minor dependent (or reimbursement therefor), or a monetary allowance in place of such transportation in kind, to a school operated by the Department of Defense under the Defense Dependents' Education Act of 1978

(20 U.S.C. 921 et seq.) for dependents in an overseas area which is operated, and which such dependent attends, on a 5-day-a-week dormitory basis or on a 7-day-a-week dormitory basis. In the case of a dependent attending a school on a 5-day-a-week dormitory basis, the transportation in kind or allowance authorized by this section shall be for weekly trips to and from such school, and in the case of a dependent attending a school on a 7-day-a-week dormitory basis, such transportation in kind or allowances shall be for not less than three trips to and from such school during the school year.

(Added Pub. L. 95-561, title XIV, §1407(d)(1)(A), formerly §1407(c)(1)(A), Nov. 1, 1978, 92 Stat. 2367, renumbered §1407(d)(1)(A), Pub. L. 101-510, div. A, title V, §504(a)(1), Nov. 5, 1990, 104 Stat. 1559; amended Pub. L. 99-145, title XIII, §1303(b)(10), Nov. 8, 1985, 99 Stat. 741.)

REFERENCES IN TEXT

The Defense Dependents' Education Act of 1978, referred to in text, is Pub. L. 95-561, title XIV, Nov. 1, 1978, 92 Stat. 2365, as amended, which is classified principally to chapter 25A (§921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

AMENDMENTS

1985—Pub. L. 99-145 inserted "(20 U.S.C. 921 et seq.)".

EFFECTIVE DATE

Section effective Oct. 1, 1978, and no provision to be construed in impair or to prevent the taking of effect of any other Act providing for the transfer of the described functions to an executive department having responsibility for education, see section 1415 of Pub. L. 95-561, set out as a note under section 921 of Title 20, Education.

TRANSFER OF FUNCTIONS

All functions of the Secretary of Defense and the Department of Defense under this section, with the exception of functions relating to operation of overseas institutions of higher education, were transferred to the Secretary of Education by section 3442(a) and (d) of Title 20, Education.

DEPENDENT STUDENT TRAVEL WITHIN UNITED STATES

For availability of Department of Defense funds for travel and transportation of dependent students of members of the Armed Forces stationed overseas for transportation allowances for travel within or between the contiguous States, see section 808 of Pub. L. 99-145, set out as a note under section 133 of Title 10, Armed Forces.

AUTHORITY UNDER THE DEFENSE DEPARTMENT OVERSEAS TEACHERS PAY AND PERSONNEL PRACTICES ACT AVAILABLE TO SECRETARY OF EDUCATION

The authority of the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act, section 901 et seq. of Title 20, Education, made available to the Secretary of Education with respect to all functions transferred from the Secretary of Defense and Department of Defense under this section by section 3442(b) of Title 20, Education.

**§ 430. Travel and transportation: dependent children of members stationed overseas**

(a) Under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service who—

(1) is assigned a permanent duty station outside the continental United States,

(2) is accompanied by his dependents at or near his duty station (unless his only dependents are in the category of dependent described in clause (3)), and

(3) has a dependent child who is under 23 years of age attending a school in the continental United States for the purpose of obtaining a secondary or undergraduate college education,

may be paid the allowance set forth in subsection (b) if he otherwise qualifies for such allowance.

(b)(1) A member described in subsection (a) may be paid a transportation allowance for each unmarried dependent child, who is under 23 years of age and is attending a school in the continental United States for the purpose of obtaining a secondary or undergraduate college education, of one annual trip between the school being attended and the member's duty station outside the continental United States and return. The allowance authorized by this section may be transportation in kind or reimbursement therefor, as prescribed by the Secretaries concerned. However, the transportation authorized by this section may not be paid a member for a child attending a school in the continental United States for the purpose of obtaining a secondary education if the child is eligible to attend a secondary school for dependents that is located at or in the vicinity of the duty station of the member and is operated under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

(2) At the option of the member, in lieu of the transportation of baggage of a dependent child under paragraph (1) from the dependent's school in the continental United States, the Secretary concerned may pay or reimburse the member for costs incurred to store the baggage at or in the vicinity of the school during the dependent's annual trip between the school and the member's duty station. The amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage.

(c) Whenever possible, the Military Airlift Command or Military Sealift Command shall be used, on a space-required basis, for the travel authorized by this section.

(d) For a member assigned to duty outside the continental United States, transportation under this section may be provided a dependent child as described in subsection (a)(3) who is attending a school in Alaska or Hawaii.

(e) The transportation allowance authorized by this section (whether transportation in kind or reimbursement) may not be paid in the case of a member assigned to a permanent duty station in Alaska or Hawaii for a child attending a school in the State of the permanent duty station.

(f) In this section, the term "continental United States" means the 48 contiguous States and the District of Columbia.

(Added Pub. L. 98-94, title IX, §910(a)(1), Sept. 24, 1983, 97 Stat. 638; amended Pub. L. 101-189, div.

A, title VI, §625(a), Nov. 29, 1989, 103 Stat. 1448; Pub. L. 101-510, div. A, title XIV, §1484(e)(1), Nov. 5, 1990, 104 Stat. 1717; Pub. L. 102-25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 105-261, div. A, title VI, §634, Oct. 17, 1998, 112 Stat. 2044.)

#### REFERENCES IN TEXT

The Defense Dependents' Education Act of 1978, referred to in subsec. (b)(1), is title XIV of Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2365, as amended, which is classified principally to chapter 25A (§921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

#### AMENDMENTS

1998—Subsec. (b). Pub. L. 105-261 designated existing provisions as par. (1) and added par. (2).

1991—Subsec. (a). Pub. L. 102-25 struck out "of this subsection" after "clause (3)" in par. (2) and "of this section" after "subsection (b)" in concluding provisions.

Subsec. (b). Pub. L. 102-25, §702(b)(1), struck out "of this section" after "subsection (a)".

1990—Subsec. (b). Pub. L. 101-510 inserted "(20 U.S.C. 921 et seq.)" after "Education Act of 1978".

1989—Subsec. (a). Pub. L. 101-189, §625(a)(1), inserted "continental" before "United States" in pars. (1) and (3) and struck out "oversea" before "duty station" in par. (2).

Subsec. (b). Pub. L. 101-189, §625(a)(2), inserted "continental" before "United States" in two places and substituted "outside the continental United States" for "in the oversea area".

Subsecs. (d) to (f). Pub. L. 101-189, §625(a)(3), added subsecs. (d) to (f).

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 625(b) of Pub. L. 101-189 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to travel and transportation commenced after the date of the enactment of this Act [Nov. 29, 1989]."

#### EFFECTIVE DATE

Section 910(b) of Pub. L. 98-94 provided that: "Section 430 of title 37, United States Code, as added by subsection (a), shall apply only with respect to travel begun after September 30, 1983."

#### DEPENDENT STUDENT TRAVEL WITHIN UNITED STATES

For availability of Department of Defense funds for travel and transportation of dependent students of members of the Armed Forces stationed overseas for transportation allowances for travel within or between the contiguous States, see section 808 of Pub. L. 99-145, set out as a note under section 133 of Title 10, Armed Forces.

Pub. L. 98-212, title VII, §799B, Dec. 8, 1983, 97 Stat. 1456, as amended by Pub. L. 98-396, title I, Aug. 22, 1984, 98 Stat. 1378, provided in part that: "After August 31, 1984, none of the funds appropriated to the Department of Defense for the travel and transportation of dependent students of military personnel stationed overseas shall be obligated for a transportation allowance for travel within or between the contiguous United States."

#### § 431. Benefits for certain members assigned to the Defense Intelligence Agency

(a) The Secretary of Defense may provide to members of the armed forces described in subsection (e) allowances and benefits comparable to those provided by the Secretary of State to

officers and employees of the Foreign Service under paragraphs (2), (3), (4), (6), (7), (8), and (13) of section 901 and sections 705 and 903 of the Foreign Service Act of 1980 (22 U.S.C. 4081(2), (3), (4), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5.

(b) The authority of the Secretary of Defense to make payments under subsection (a) is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

(c) Members of the armed forces may not receive benefits under both subsection (a) and any other provision of this title for the same purpose. The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.

(d) Regulations prescribed under subsection (a) may not take effect until the Secretary of Defense has submitted such regulations to—

(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

(2) the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives.

(e) Subsection (a) applies to members of the armed forces who—

(1) are assigned—

(A) to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States; or

(B) to the Defense Intelligence Agency and engaged in intelligence-related duties outside the United States; and

(2) are designated by the Secretary of Defense for the purposes of subsection (a).

(Added Pub. L. 99-145, title XIII, §1302(b)(1), Nov. 8, 1985, 99 Stat. 738; amended Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-93, title V, §502(b), Jan. 6, 1996, 109 Stat. 973.)

#### CODIFICATION

Another section 431 was renumbered section 432 of this title.

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-93, §502(b)(1), substituted “described in subsection (e)” for “who are assigned to Defense Attache Offices and Defense Intelligence Agency Liaison Offices outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection”.

Subsecs. (d), (e). Pub. L. 104-93, §502(b)(2), (3), added subsecs. (d) and (e) and struck out former subsec. (d) which read as follows: “Regulations prescribed pursuant to subsection (a) shall be submitted to the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate before such regulations take effect.”

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

#### CHANGE OF NAME

Committee on National Security of House of Representatives changed to Committee on Armed Services of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

#### DELEGATION OF AUTHORITY OF SECRETARY OF DEFENSE

Section 1302(b)(3) of Pub. L. 99-145, as amended by Pub. L. 100-180, div. A, title XIII, §1314(d)(4), Dec. 4, 1987, 101 Stat. 1176, provided that: “The authority of the Secretary of Defense under section 431 of title 37, United States Code, as added by paragraph (1), may be delegated in accordance with section 113(d) of title 10, United States Code.”

[Amendment to section 1302(b)(3) of Pub. L. 99-145 by Pub. L. 100-180 effective Oct. 1, 1986, see section 1314(e)(2) of Pub. L. 100-180, set out as a note under section 413 of this title.]

#### CROSS REFERENCES

Civilian personnel of Defense Intelligence Agency, entitlement to benefits similar to those provided by this section, see section 1605 of Title 10, Armed Forces.

#### § 432. Travel and transportation: members escorting certain dependents

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service may be provided round trip transportation and travel allowances for travel performed or to be performed under competent orders as an escort for the member's dependent when travel by the dependent is authorized by competent authority and the dependent is incapable of traveling alone because of age, mental or physical incapacity, or other extraordinary circumstances.

(b) Whenever possible, the Military Airlift Command or Military Sealift Command shall be used, on a space-required basis, for the travel authorized by this section.

(Added Pub. L. 99-661, div. A, title VI, §615(a)(1), Nov. 14, 1986, 100 Stat. 3879, §431; renumbered §432, Pub. L. 100-26, §8(b)(1), Apr. 21, 1987, 101 Stat. 285.)

#### PRIOR PROVISIONS

Provisions similar to this section were contained in section 192 of Title 10, Armed Forces, prior to enactment of this section by Pub. L. 99-145.

#### EFFECTIVE DATE

Section 615(b) of Pub. L. 99-661 provided that: “Section 431 [now 432] of title 37, United States Code, as added by subsection (a), shall apply with respect to travel performed after September 30, 1986.”

#### § 433. Allowance for muster duty

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the Ready Reserve who is not a member of the National Guard or of the Selected Reserve is entitled to an allowance for muster duty performed pursuant to section 12319 of title 10 if the member is engaged in that duty for at least two hours.

(b) The amount of the allowance under this section shall be 125 percent of the amount of the average per diem rate for the United States (other than Alaska and Hawaii) under section 404(d)(2)(A) of this title as in effect on September 30 of the year preceding the year in which the muster duty is performed.

(c) The allowance authorized by this section may not be disbursed in kind. The allowance may be paid to the member before, on, or after the date on which the muster duty is performed, but not later than 30 days after that date. The

allowance shall constitute the single, flat-rate monetary allowance authorized for the performance of muster duty and shall constitute payment in full to the member, regardless of grade or rank in which serving, as commutation for travel to the immediate vicinity of the designated muster duty location, transportation, subsistence, and the special or extraordinary costs of enforced absence from home and civilian pursuits, including such absence on weekends and holidays.

(d) A member who performs muster duty is not entitled to compensation for inactive-duty training under section 206(a) of this title for the same period.

(Added Pub. L. 101-189, div. A, title V, § 502(b)(1), Nov. 29, 1989, 103 Stat. 1436; amended Pub. L. 101-510, div. A, title XIV, § 1484(h)(5), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 104-106, div. A, title XV, § 1501(d)(4)(B), Feb. 10, 1996, 110 Stat. 501; Pub. L. 105-85, div. A, title VI, § 627, Nov. 18, 1997, 111 Stat. 1795.)

#### AMENDMENTS

1997—Subsec. (c). Pub. L. 105-85 struck out “and shall be paid to the member on or before the date on which the muster duty is performed” after “disbursed in kind” in first sentence and inserted “The allowance may be paid to the member before, on, or after the date on which the muster duty is performed, but not later than 30 days after that date.” after first sentence.

1996—Subsec. (a). Pub. L. 104-106 substituted “section 12319 of title 10” for “section 687 of title 10”.

1990—Subsec. (a). Pub. L. 101-510 substituted “section 687 of title 10” for “section 691 of title 10”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Section 1484(h)(5) of Pub. L. 101-510 provided that the amendment made by that section is effective as of Nov. 29, 1989.

### § 434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams

(a) REIMBURSEMENT OF REASONABLE SUBSISTENCE COSTS.—Under uniform regulations prescribed by the Secretaries concerned, a member of the armed forces may be reimbursed for the reasonable cost of subsistence incurred by the member while performing duties as an escort of an arms control inspection team of a foreign country, or any member of such a team, while the team or the team member, as the case may be, is engaged in activities related to the implementation of an arms control treaty or agreement.

(b) PERIOD OF AUTHORITY.—The authority under subsection (a) applies to the period during which the inspection team, pursuant to authority specifically provided in the applicable arms control treaty or agreement, is in the country where inspections and related activities are being conducted by the team pursuant to that treaty or agreement.

(c) EFFECT OF LOCATION OF MEMBER'S PERMANENT DUTY STATION.—The authority under subsection (a) applies to a member of the armed forces whether the duties referred to in that subsection are performed at, near, or away from the member's permanent duty station.

(Added Pub. L. 102-484, div. A, title VI, § 623(a)(1), Oct. 23, 1992, 106 Stat. 2422.)

#### EFFECTIVE DATE

Section 623(b) of Pub. L. 102-484 provided that: “Section 434 of title 37, United States Code, as added by subsection (a), shall apply with respect to escort duty described in that section which is performed on or after the date of the enactment of this Act [Oct. 23, 1992].”

### CHAPTER 9—LEAVE

Sec.	
501.	Payments for unused accrued leave.
502.	Absences due to sickness, wounds, and certain other causes.
503.	Absence without leave or over leave.
504.	Cadets and midshipmen: chapter does not apply to.

#### AMENDMENTS

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

### § 501. Payments for unused accrued leave

(a) In this section, the term “discharge” means—

(1) in the case of an enlisted member, separation or release from active duty under honorable conditions or appointment as an officer;

(2) in the case of an officer, separation or release from active duty under honorable conditions; and

(3) in the case of either an officer or an enlisted member, death while on active duty unless the decedent was put to death as lawful punishment for a crime or a military offense.

(b)(1) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration, who has accrued leave to his credit at the time of his discharge, is entitled to be paid in cash or by a check on the Treasurer of the United States for such leave on the basis of the basic pay to which he was entitled on the date of discharge.

(2) Payment may not be made under this subsection to a member who is discharged for the purpose of accepting an appointment or a warrant, or entering into an enlistment, in any uniformed service.

(3) Payment may not be made to a member for any leave he elects to have carried over to a new enlistment in any uniformed service on the day after the date of his discharge; but payment may be made to a member for any leave he elects not to carry over to a new enlistment. However, the number of days of leave for which payment is made may not exceed sixty, less the number of days for which payment was previously made under this section after February 9, 1976.

(4) A member to whom a payment may not be made under this subsection, or a member who reverts from officer to enlisted status, carries

the accrued leave standing to his credit from the one status to the other within any uniformed service.

(5) The limitation in the second sentence of paragraph (3) and in subsection (f) shall not apply with respect to leave accrued—

(A) by a member of a reserve component while serving on active duty in support of a contingency operation;

(B) by a member of the armed forces in the Retired Reserve while serving on active duty in support of a contingency operation; or

(C) by a retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps or a member of the Fleet Reserve or Fleet Marine Corps Reserve while the member is serving on active duty in support of a contingency operation.

(c) Unused accrued leave for which payment is made under subsection (b) is not considered as service for any purpose.

(d)(1) Payments for unused accrued leave under subsections (b) and (g), in the case of a member who dies while on active duty or in the case of a member or former member who dies after retirement or discharge and before he receives that payment, shall be made in accordance with section 2771 of title 10. In the case of a member who dies while on active duty, payment for unused accrued leave under subsections (b) and (g) shall be based upon the unused accrued leave the member carried forward into the leave year during which he died plus the unused leave that accrued to him during that leave year.

(2) The limitations in the second sentence of subsection (b)(3), subsection (f), and the second sentence of subsection (g) shall not apply with respect to a payment made under this subsection.

(e)(1) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration who is discharged under other than honorable conditions forfeits all accrued leave to his credit at the time of his discharge.

(2) The Secretary concerned may require that a member of a uniformed service who is discharged before completing six months of active duty because of a failure to serve satisfactorily (as determined by the Secretary concerned) forfeit all accrued leave to his credit at the time of his discharge.

(f) The number of days upon which payment under subsection (b) or (g) is based may not exceed sixty, less the number of days for which payment has been previously made under such subsections after February 9, 1976. For the purposes of this subsection, the number of days upon which payment may be based shall be determined without regard to any break in service or change in status in the uniformed services.

(g) An officer of the Regular Corps of the Public Health Service, or an officer of the Reserve Corps of the Public Health Service on active duty, who is credited with accumulated and accrued annual leave on the date of his separation, retirement, or release from active duty, shall, if his application for that leave is approved by the

Secretary of Health and Human Services, be paid for that leave in a lump-sum on the basis of his basic pay, subsistence allowance, and allowance for quarters whether or not he is receiving that allowance on that date. However, the number of days upon which the lump-sum payment is based is subject to subsection (f). A lump-sum payment may not be made under this subsection to an officer—

(1) whose appointment expires or is terminated and who, without a break in active service, accepts a new appointment;

(2) who is retired for age in time of war and is continued on, or recalled to, active duty without a break in active service; or

(3) who is transferred to another department or agency of the United States under circumstances in which, by any other law, his leave may be transferred.

In this subsection, the term “accumulated annual leave” means unused accrued annual leave carried forward from one leave year into the next leave year, and the term “accrued annual leave” means the annual leave accruing to an officer during one leave year.

(h) Payment shall be made for all leave accumulated under section 701(g) of title 10 as soon as possible after the name of the person concerned is removed from a missing status, as defined in section 551(2) of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480; Pub. L. 89-151, §§1, 2, Aug. 28, 1965, 79 Stat. 586; Pub. L. 89-718, §§49(a)(1), 65, Nov. 2, 1966, 80 Stat. 1121, 1123; Pub. L. 92-596, §2, Oct. 27, 1972, 86 Stat. 1318; Pub. L. 94-361, title III, §304(a)-(g), July 14, 1976, 90 Stat. 925, 926; Pub. L. 96-513, title V, §516(14), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 98-525, title VI, §606(a), Oct. 19, 1984, 98 Stat. 2537; Pub. L. 99-145, title VI, §682, Nov. 8, 1985, 99 Stat. 665; Pub. L. 100-26, §8(e)(6), (9), Apr. 21, 1987, 101 Stat. 286, 287; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §637, Dec. 5, 1991, 105 Stat. 1383; Pub. L. 104-106, div. A, title VI, §641, Feb. 10, 1996, 110 Stat. 368.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
501(a) .....	37:32(b), (d), (e), and (h).	Aug. 9, 1946, ch. 931, §2(b), (d), (e), (g), and (h), 60 Stat. 963; June 19, 1948, ch. 541, §1(a), 62 Stat. 506.
501(b) .....	37:33(c) (less 3d and last sentences). 37:32(g).	Aug. 9, 1946, ch. 931, §4(c), (d), 60 Stat. 964; restated Aug. 4, 1947, ch. 475, §1 (less 1st 2 pars.), 61 Stat. 748; July 24, 1956, ch. 682, §1, 70 Stat. 625.
	37:39 (less last proviso).	Aug. 17, 1949, ch. 452, §1 (less last proviso), 63 Stat. 611.
501(c) .....	37:33(c) (3d sentence).	
501(d) .....	37:33(c) (last sentence).	
501(e) .....	37:33(d).	
501(f) .....	37:31a(b) (proviso).	Aug. 9, 1946, ch. 931, §3(b) (proviso); added Sept. 23, 1950, ch. 998, §1 (proviso), 64 Stat. 979.



## HISTORICAL AND REVISION NOTES—Continued

Revised section	Source (U.S. Code)	Source (Statutes at Large)
501(g) .....	42:210-1(c) (last sentence), 42:210-1(d) (as applicable to 42:210-1(c) (last sentence)).	July 1, 1944, ch. 373, § 219(c) (last sentence), (d) (as applicable to (c) (last sentence)); added Aug. 9, 1950, ch. 654, § 2 (last sentence of 3d par., and 4th par., as applicable to last sentence of 3d par.), 64 Stat. 426.

In subsection (a), the word "officer" is substituted for the words "commissioned officer or warrant officer", in section 32(b) of existing title 37. The words "persons may be treated as parents for the purposes of this clause" are substituted for the words "parents may receive the benefits provided under said sections" in section 32(e) of existing title 37.

In subsections (b)-(d) and (f), the word "payment" is substituted for the word "settlement".

In subsection (b), the words "in pay grade E-9, E-8, E-7, E-6, or E-5 with dependents, an allowance computed at the rate of \$1.25 a day for quarters" are substituted for the words "the allowances as provided for such enlisted persons in subsection (a)". The words "after August 31, 1946" are omitted as executed. The word "basic" is substituted for the words "base and longevity" to reflect current terminology.

In subsection (c), the word "accrued" is inserted to conform to subsection (b). The words "and compensated for in cash" are omitted as surplusage.

In subsection (d), the words "and compensation" and "of the Armed Forces" are omitted as surplusage. The words "before he receives" are substituted for the words "without having received".

In subsection (f), the words "cash" and "unused or accumulated" are omitted as surplusage. The words "subsequent to August 31, 1946" are omitted as executed.

In subsection (g), the word "retirement" is omitted as covered by the words "separation or release from active duty". The words "under this subsection" are substituted for the words "for such unused leave". The word "appointment" is substituted for the word "commission".

## AMENDMENTS

1996—Subsec. (d)(1). Pub. L. 104-106, § 641(a)(1), struck out at end "Except as provided in paragraph (2), the number of days upon which payment is based is subject to subsection (f)."

Subsec. (d)(2). Pub. L. 104-106, § 641(a)(2), added par. (2) and struck out former par. (2) which read as follows: "In the case of a member of the uniformed services who dies as a result of an injury or illness incurred while serving on active duty in support of a contingency operation, the limitations in the second sentence of subsection (b)(3), subsection (f), and the second sentence of subsection (g) shall not apply with respect to a payment made under this subsection for leave accrued during the contingency operation."

Subsec. (f). Pub. L. 104-106, § 641(b), struck out " (d)," before "or (g) is based".

1991—Subsec. (b)(5). Pub. L. 102-190, § 637(b), added par. (5).

Subsec. (c). Pub. L. 102-25, § 702(b)(1), struck out "of this section" after "subsection (b)".

Subsec. (d). Pub. L. 102-190, § 637(a), designated existing provisions as par. (1), substituted "Except as provided in paragraph (2)," for "However," and added par. (2).

Pub. L. 102-25, § 702(b)(1), struck out "of this section" after "subsections (b) and (g)" in two places.

Subsec. (f). Pub. L. 102-25, § 702(b)(1), struck out "of this section" after "subsection (b), (d), or (g)".

1987—Subsec. (a). Pub. L. 100-26, § 8(e)(6), inserted "the term" after "In this section..".

Subsec. (g). Pub. L. 100-26, § 8(e)(9), inserted "the term" before "accumulated annual leave" and "accrued annual leave".

1985—Subsecs. (b)(3), (f). Pub. L. 99-145 substituted "February 9, 1976" for "September 1, 1976".

1984—Subsec. (e). Pub. L. 98-525, § 606(a), designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (b)(3). Pub. L. 96-513, § 516(14)(A), substituted "September 1, 1976" for "the first day of the second calendar month following the month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted".

Subsec. (d). Pub. L. 96-513, § 516(14)(B), substituted "unused" for "unusued".

Subsec. (f). Pub. L. 96-513, § 516(14)(A), (C), substituted "September 1, 1976" for "the first day of the second calendar month following the month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted", and inserted "of this section" after "(g)".

Subsec. (g). Pub. L. 96-513, § 516(14)(C), substituted "Secretary of Health and Human Services" for "Surgeon General".

1976—Subsec. (a). Pub. L. 94-361, § 304(a), (b), struck out cl. (1) designation for existing provisions, made definition applicable to the section rather than to subsecs. (b) to (f) of this section, and redesignated as cls. (1), (2), and (3) former subcls. (A), (B), and (C); and struck out former cls. (2), (3), and (4) defining "child", "parent", and "brother or sister", respectively.

Subsec. (b). Pub. L. 94-361, § 304(c), in revising text, incorporated in provisions designated par. (1) provisions of former first and second sentences for payments for unused accrued leave of officers and enlisted members, striking out consideration of allowances to officers and of allowances to enlisted members computed at rate of 70 cents a day for subsistence and of allowance to enlisted members in pay grades E-9 through E-5 with dependents at rate of \$1.25 for quarters, and substituting "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration"; incorporated in par. (2) provisions of item (1) of former third sentence, substituting "in any uniformed service" for "in his armed force"; incorporated in par. (3) provisions of item (2) of former third sentence, substituting "in any uniformed service" for "in his armed force" and inserting provisions for payment for leave not carried over to a new enlistment and prescribing number of days of leave for which payment may be made; and designated last (the fourth) sentence as par. (4), substituting "within any uniformed service" for "within his armed force".

Subsec. (d). Pub. L. 94-361, § 304(d), substituted provision making the number of days upon which payment is based subject to subsec. (f) for provision limiting to not more than 60 the number of days upon which the payment is based.

Subsec. (e). Pub. L. 94-361, § 304(e), substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

Subsec. (f). Pub. L. 94-361, § 304(f), added subsec. (f). Former subsec. (f), prohibiting payment for leave in excess of 60 days upon discharge or retirement, was struck out.

Subsec. (g). Pub. L. 94-361, § 304(g), substituted provision making the number of days upon which the lump-sum payment is based subject to subsec. (f) for provision limiting to not more than 60 the number of days upon which the lump-sum payment is based.

1972—Subsec. (d). Pub. L. 92-596, § 2(1), inserted reference to accumulated leave under subsection (h) of this section.

Subsec. (h). Pub. L. 92-596, § 2(2), added subsec. (h).

1966—Subsecs. (b), (e). Pub. L. 89-718, § 49(a)(1), substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

Subsec. (d). Pub. L. 89-718, § 65, substituted "60" for "sixty".

1965—Subsec. (a)(1). Pub. L. 89-151, § 1, added subpar. (C).

Subsec. (d). Pub. L. 89-151, § 2, included members who die while on active service and payments for unused ac-

crued leave of members of the Public Health Service, substituted provisions referring to section 2771 of title 10 to find the mode of payment for provision spelling out the mode of payment in detail, omitted provisions prohibiting payment under this section in the event of no survivor and making valid any payments to survivors between the ages of 17 and 21, and inserted provisions basing payment for unused leave in the event of members dying while on active duty upon accrued leave carried forward into the year plus leave accruing during the year with a limit of 60 days.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Section 606(b) of Pub. L. 98-525 provided that: "The amendments made by subsection (a) [amending this section] shall apply in the case of members of the uniformed service (as defined in section 101(3) of title 37, United States Code) who enlist or are commissioned on or after the date of the enactment of this Act [Oct. 19, 1984]."

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-596 effective Feb. 28, 1961, see section 3 of Pub. L. 92-596, set out as a note under section 701 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Section 4 of Pub. L. 89-151 provided that: "This Act [amending this section and section 701 of Title 10, Armed Forces] applies only in the case of members who die on or after the date of enactment [Aug. 28, 1965]."

#### TREATMENT OF ACCUMULATED LEAVE IN CONNECTION WITH ACTIVE DUTY DURING PERSIAN GULF CONFLICT

Section 309(a) of Pub. L. 102-25 provided that: "In the case of a member of the uniformed services who dies as a result of an injury or illness incurred while serving on active duty during the Persian Gulf conflict, the limitation in the second sentence of subsection (b)(3) of section 501 of title 37, United States Code, and in subsection (f) of that section shall not apply with respect to a payment made pursuant to subsection (d) of that section for leave accrued during fiscal year 1990 or 1991."

Pub. L. 101-510, div. A, title XI, §1115, Nov. 5, 1990, 104 Stat. 1636, as amended by Pub. L. 102-25, title III, §§309(b), 314(1), (3), Apr. 6, 1991, 105 Stat. 83, 86, provided that:

"(a) INAPPLICABILITY OF ELIGIBILITY LIMITATION.—The limitation in the second sentence of subsection (b)(3) of section 501 of title 37, United States Code, and in subsection (f) of that section does not apply with respect to the following leave:

"(1) Leave accrued by a member of a reserve component of the Armed Forces while serving on active duty (other than for training) in connection with the Persian Gulf conflict pursuant to an order to active duty authorized under section 672, 673, 673b, or 674 [now 12301, 12302, 12304, or 12306] of title 10, United States Code.

"(2) Leave accrued by a member of the Armed Forces in the Retired Reserve while serving on active duty in connection with the Persian Gulf conflict pursuant to an order to active duty authorized by section 675 [now 12307] of title 10, United States Code.

"(3) Leave accrued by a retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, a member of the Retired Reserve, or a member of the Fleet Reserve or Fleet Marine Corps Reserve while such retired member or member, as the case may be, is serving on active duty in connection with the Persian Gulf conflict pursuant to an

order to active duty authorized by section 688 of title 10, United States Code.

"(4) Leave accrued by a member referred to in paragraph (1), (2), or (3) while serving on active duty (other than for training) in connection with the Persian Gulf conflict pursuant to an order to such active duty issued with the consent of the member during a period in which members of the Armed Forces are being ordered to active duty in connection with such operation pursuant to a provision of title 10, United States Code, referred to in such paragraph.

"(b) SAVING PROVISION FOR CERTAIN ACCRUED LEAVE.—(1) Subject to paragraph (2), a member of the Armed Forces who, under section 701(f) of title 10, United States Code—

"(A) would lose any accumulated leave in excess of 60 days at the end of fiscal year 1991 shall be permitted to retain such leave until the end of fiscal year 1992; or

"(B) would lose any accumulated leave in excess of 60 days at the end of fiscal year 1992 (other than by reason of clause (A)) shall be permitted to retain such leave until the end of fiscal year 1993.

"(2) In no case may a member be permitted to accumulate leave under this section in excess of 90 days.

"(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations establishing standards and procedures for the administration of this section."

[Section 309(c) of Pub. L. 102-25 provided that: "The amendment made by subsection (b) [amending section 1115(a) of Pub. L. 101-510, set out above] shall take effect as of November 5, 1990."]

#### OPTIONS OF MEMBERS AS TO BASIS OF PAYMENT FOR ACCRUED LEAVE

Section 304(h) of Pub. L. 94-361 provided that: "Notwithstanding the provisions of section 501(b)(1) of title 37, United States Code, as amended by subsection (c), and subject to the limitations prescribed in section 501(b)(3) of such title, as amended by subsection (c), any leave accrued by any member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration prior to the first day of the second calendar month following the month [July, 1976] in which this section is enacted shall, at the option of such member, be paid for on the same basis such leave would have been paid for under the provisions of section 501(b) of title 37, United States Code, on the day prior to the first day of the second calendar month following the month in which this section is enacted."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 701.

### § 502. Absences due to sickness, wounds, and certain other causes

(a) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration, who is absent because of sickness or wounds, or who is directed by the Secretary concerned, or his designated representative, to be absent from duty to await orders pending disability retirement proceedings for a period that is longer than the leave authorized by section 701 of title 10, is entitled to the pay and allowances to which he would be entitled if he were not so absent. A member who is absent with leave for any other reason for not longer than the leave authorized by that section is entitled to the same pay and allowances to which he would be entitled if he were not on leave, and to any additional allowances otherwise provided by law for members on leave.

(b) Except as provided in subsection (a) and section 701(h) of title 10, a member who is authorized by the Secretary concerned, or his designated representative, to be absent for a period that is longer than the leave authorized by section 701 of title 10 is not entitled to pay or allowances during the part of his absence that is more than the number of days' leave authorized by that section.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 482; Pub. L. 89-718, §49(a)(1), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 96-513, title V, §516(15), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 99-661, div. A, title V, §506(b), Nov. 14, 1986, 100 Stat. 3865; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
502(a) .....	37:33(b) (1st and last sentences). 37:39 (less last proviso).	Aug. 9, 1946, ch. 931, §4(b) (less 3d sentence); restated Aug. 4, 1947, ch. 475, §1 (2d par., less 3d sentence), 61 Stat. 748.
	37:32(f) (last 8 words).	Aug. 9, 1946, ch. 931, §2(f) (last 8 words), 60 Stat. 963.
502(b) .....	37:33(b) (2d sentence).	Aug. 17, 1949, ch. 452, §1 (less last proviso), 63 Stat. 611.
	37:32(f) (last 8 words).	Aug. 9, 1946, ch. 931, §2(f) (last 8 words), 60 Stat. 963.

In subsection (a), the words "After August 31, 1946", in section 33(b) of existing title 37, are omitted as executed. The words "allowance or", in section 33(b) of existing title 37, are omitted as surplusage. The last sentence of section 33(b) of existing title 37 is omitted as executed, since the Act of December 28, 1945 (59 Stat. 663) was repealed by section 506(g) of the Officer Personnel Act of 1947 (61 Stat. 892).

In subsections (a) and (b), the words "or his designated representative," are substituted for the last 8 words of section 32(f) of existing title 37.

In subsection (b), the words "Except as provided in subsection (a) of this section" are inserted for clarity. The words "the part of his absence that is more than the number of days' leave authorized by that section" are substituted for the words "such absence".

## AMENDMENTS

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

1986—Subsec. (b). Pub. L. 99-661 inserted "and section 701(h) of title 10".

1980—Subsec. (a). Pub. L. 96-513 substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

1966—Subsec. (a). Pub. L. 89-718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

## EFFECTIVE DATE OF 1980 AMENDMENT

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

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1201.

## § 503. Absence without leave or over leave

(a) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration, who is absent without leave or over leave, forfeits all pay and allowances for the period of that absence, unless it is excused as unavoidable.

(b) A commissioned officer of the Regular Corps of the Public Health Service, or an officer of the Reserve Corps of the Public Health Service on active duty, who is absent without leave, forfeits all pay and allowances for the period of that absence, unless it is excused as unavoidable.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 482; Pub. L. 89-718, §49(a)(1), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 96-513, title V, §516(15), Dec. 12, 1980, 94 Stat. 2939.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
503(a) .....	37:33(b) (3d sentence).	Aug. 9, 1946, ch. 931, §4(b) (3d sentence); restated Aug. 4, 1947, ch. 475, §1 (3d sentence of 2d par.), 61 Stat. 748.
	37:39 (less last proviso).	Aug. 17, 1949, ch. 452, §1 (less last proviso), 63 Stat. 611.
503(b) .....	42:210-1(b).	July 1, 1944, ch. 373, §219(b); added Aug. 9, 1950, ch. 654, §2 (2d par.), 64 Stat. 426.

In subsections (a) and (b), the words "for the period of that absence" are substituted for the words "during such absence".

## AMENDMENTS

1980—Subsec. (a). Pub. L. 96-513 substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

1966—Subsec. (a). Pub. L. 89-718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

## TRANSFER OF FUNCTIONS

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

## § 504. Cadets and midshipmen: chapter does not apply to

This chapter does not apply to cadets at the United States Military Academy, the United States Air Force Academy, the Coast Guard Academy, midshipmen at the United States Naval Academy, or cadets or midshipmen serving elsewhere in the armed forces.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 483.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
504 .....	37:38 (as applicable to payment for leave).	Aug. 9, 1946, ch. 931, § 10 (as applicable to payment for leave); added Aug. 4, 1947, ch. 475, § 3 (as applicable to payment for leave), 61 Stat. 749; Sept. 2, 1958, Pub. L. 85-861, § 33(d)(2), 72 Stat. 1567.

**CHAPTER 10—PAYMENTS TO MISSING PERSONS**

Sec. 551.	Definitions.
552.	Pay and allowances; continuance while in a missing status; limitations.
553.	Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations.
554.	Travel and transportation; dependents; household and personal effects; trailers; additional movements; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable.
555.	Secretarial review.
556.	Secretarial determinations.
557.	Settlement of accounts.
558.	Income tax deferment.
559.	Benefits for members held as captives.

AMENDMENTS

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

1986—Pub. L. 99-399, title VIII, § 806(a)(2), Aug. 27, 1986, 100 Stat. 885, added item 559.

1972—Pub. L. 92-477, § 1(1), Oct. 9, 1972, 86 Stat. 793, inserted “trailers; additional movements;” after “household and personal effects;” in item 554.

1966—Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 625, added chapter 10 and items 551 to 558.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 10 sections 1482, 1511, 1524; title 18 section 1923; title 38 section 107.

**§ 551. Definitions**

In this chapter:

(1) The term “dependent”, with respect to a member of a uniformed service, means—

- (A) his spouse;
- (B) his unmarried child (including an unmarried dependent stepchild or adopted child) under 21 years of age;
- (C) his dependent mother or father;
- (D) a dependent designated in official records; and
- (E) a person determined to be dependent by the Secretary concerned, or his designee.

(2) The term “missing status” means the status of a member of a uniformed service who is officially carried or determined to be absent in a status of—

- (A) missing;
- (B) missing in action;
- (C) interned in a foreign country;
- (D) captured, beleaguered, or besieged by a hostile force; or
- (E) detained in a foreign country against his will.

(3) The term “pay and allowances” means—

- (A) basic pay;
- (B) special pay;
- (C) incentive pay;
- (D) basic allowance for housing;
- (E) basic allowance for subsistence; and
- (F) station per diem allowances for not more than 90 days.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 625; amended Pub. L. 99-145, title XIII, § 1301(g), Nov. 8, 1985, 99 Stat. 737; Pub. L. 100-26, § 8(e)(10), Apr. 21, 1987, 101 Stat. 287; Pub. L. 105-85, div. A, title VI, § 603(d)(1)(D), Nov. 18, 1997, 111 Stat. 1782.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
551(1) .....	50 App. 1001.	Mar. 7, 1942, ch. 166, § 1, 56 Stat. 143; July 1, 1944, ch. 371, § 1, 58 Stat. 679; Aug. 14, 1964, Pub. L. 88-428, § 1(1), (2), 78 Stat. 437.
551(2) .....	50 App. 1002(a) (22d through 66th words of 1st sentence, for definition purposes).	Mar. 7, 1942, ch. 166, § 2(a) (22d through 66th and 96th through 120th words of 1st sentence, for definition purposes); added July 1, 1944, ch. 371, § 2, 58 Stat. 679; Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, § 1(b) (1st par.), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88-428, § 1(3)(A), 78 Stat. 437.
551(3) .....	50 App. 1002(a) (96th through 120th words of 1st sentence, for definition purposes).	

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

The words “In this chapter” are substituted for “For the purpose of this Act”.

In clause (1), the words “with respect to a member of a uniformed service” are inserted for clarity. In clause (1)(A), the word “lawful” is omitted as unnecessary in view of the accepted recognition of the fact that the word “wife” means a lawful wife. In clause (1)(E), the words “Secretary concerned, or his designee” are substituted for “head of the department concerned, or subordinate designated by him” to conform to the definition in 37 U.S.C. 101(5). The definitions of “person”, “active service”, and “department”, respectively, in 50 App. U.S.C. 1001(a)(1), (b), and (d) are omitted as unnecessary in view of the definitions of “member”, “uniformed services”, “active service”, and “Secretary concerned”, in 37 U.S.C. 101(3), (5), (20), and (23).

The definitions in clauses (2) and (3), which do not appear in, but are based on, the source law are created for legislative convenience.

AMENDMENTS

1997—Par. (3)(D). Pub. L. 105-85 substituted “housing” for “quarters”.

1987—Pub. L. 100-26 substituted “In this chapter:” for “In this chapter—”, inserted “The term” at beginning of pars. (1) to (3), and substituted period for semicolon at end of par. (1) and period for “; and” at end of par. (2).

1985—Par. (1)(A). Pub. L. 99-145 substituted “spouse” for “wife”.

EFFECTIVE DATE OF 1997 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 501 of this title; title 10 sections 701, 1032, 1035, 1095a, 2181, 4342, 6954, 9342, 12301; title 26 section 112.

**§ 552. Pay and allowances; continuance while in a missing status; limitations**

(a) A member of a uniformed service who is on active duty or performing inactive-duty training, and who is in a missing status, is—

(1) for the period he is in that status, entitled to receive or have credited to his account the same pay and allowances, as defined in this chapter, to which he was entitled at the beginning of that period or may thereafter become entitled; and

(2) for the period, not to exceed one year, required for his hospitalization and rehabilitation after termination of that status, under regulations prescribed by the Secretaries concerned, with respect to incentive pay, considered to have satisfied the requirements of section 301 of this title so as to entitle him to a continuance of that pay.

However, a member who is performing full-time training duty or other full-time duty without pay, or inactive-duty training with or without pay, is entitled to the pay and allowances to which he would have been entitled if he had been on active duty with pay. Notwithstanding section 1523 of title 10 or any other provision of law, the promotion of a member while he is in a missing status is fully effective for all purposes.

(b) The expiration of a member's term of service while he is in a missing status does not end his entitlement to pay and allowances under subsection (a). Notwithstanding the death of a member while in a missing status, entitlement to pay and allowances under subsection (a) ends on the date—

(1) the Secretary concerned receives evidence that the member is dead; or

(2) that his death is prescribed or determined under section 555 of this title or under chapter 76 of title 10.

(c) A member is not entitled to pay and allowances under subsection (a) for a period during which he is officially determined to be absent from his post of duty without authority, and he is indebted to the United States for payments from amounts credited to his account for that period.

(d) A member who is performing full-time training duty or inactive-duty training is entitled to the benefits of this section only when he is officially determined to be in a missing status that results from the performance of duties prescribed by competent authority.

(e) A member in a missing status who is continued in that status under section 555 of this title or under chapter 76 of title 10 is entitled to be credited with pay and allowances under subsection (a).

(Added Pub. L. 89-554, §5(b), Sept. 6, 1966, 80 Stat. 625; amended Pub. L. 92-169, §1, Nov. 24, 1971, 85 Stat. 489; Pub. L. 92-482, Oct. 12, 1972, 86 Stat. 796; Pub. L. 93-26, §1, Apr. 27, 1973, 87 Stat. 26; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title V, §569(c)(2), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
552(a) .....	50 App. 1002(a) (1st sentence, less last 46 words).	Mar. 7, 1942, ch. 166, §2(a); added July 1, 1944, ch. 371, §2, 58 Stat. 679; Apr. 4, 1953, ch. 17, §1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, §1(b) (1st par.), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88-428, §1(3), 78 Stat. 437.
	50 App. 1014 (as applicable to §1002(a) (1st sentence)).	Mar. 7, 1942, ch. 166, §14 (as applicable to §2(a) (1st and last sentences)), 56 Stat. 147; Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
552(b) .....	50 App. 1002(a) (last 46 words of 1st sentence, and 2d sentence).	
552(c) .....	50 App. 1002(a) (3d sentence).	
552(d) .....	50 App. 1002(a) (last sentence).	
	50 App. 1014 (as applicable to §1002(a) (last sentence)).	
552(e) .....	50 App. 1006 (2d sentence as applicable to pay and allowances).	Mar. 7, 1942, ch. 166, §6 (2d sentence, as applicable to pay and allowances); added Dec. 24, 1942, ch. 828, §1 (4th par.), 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88-428, §1(5)(B), 78 Stat. 437.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the first 22 words are substituted for 50 App. U.S.C. 1002(a) (1st 66 words) to conform to the definitions in 37 U.S.C. 101(3), (18), (20), (22), and (23) and revised section 551(2) of this chapter. The words "pay and allowances, as defined in this chapter," are substituted for the enumeration of pay and allowances in 50 App. U.S.C. 1002(a) (1st sentence) to conform to the definition in revised section 551(3) of this chapter. The words "on active duty" are substituted for "performing full-time active duty" to conform to the definition in 37 U.S.C. 101(18).

In subsection (b), the first sentence is substituted for 50 App. U.S.C. 1002(a) (1st 21 words of 2d sentence). The words "or employment" are omitted as inapplicable to members of the uniformed services. The words "entitlement to pay and allowances under subsection (a) of this section" are substituted for "Such entitlement to pay and allowances" for clarity. The words "Notwithstanding the death of a member while in a missing status" are substituted for 50 App. U.S.C. 1002(a) (2d sentence, less 1st 21 words). The word "member" is substituted for "person" and the word "Secretary" is substituted for "department" to conform to the definitions in 37 U.S.C. 101(5) and (23).

In subsection (c), the words "A member" are substituted for "such person". The words "under subsection (a) of this section" are inserted for clarity. The words "United States" are substituted for "Government" to conform to the style of title 37.

In subsection (d), the words "A member . . . he . . . in a missing status" are substituted for "Persons", "such persons", and the enumerated absent stata to conform to the definitions in 37 U.S.C. 101(23) and revised section 551(2) of this chapter.

In subsection (e), the words "A member in a missing status" are substituted for "a person missing under the conditions specified in section 2 of this Act" to conform to the definition in revised section 551(2) of this chapter. The words "under subsection (a) of this section" are substituted for "as provided in section 2 of this Act".

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-106, §569(c)(2)(A), substituted "for all purposes" for "for all purposes, even

though the Secretary concerned determines under section 556(b) of this title that the member died before the promotion was made”.

Subsec. (b)(2). Pub. L. 104-106, § 569(c)(2)(B), inserted “or under chapter 76 of title 10” before period at end.

Subsec. (e). Pub. L. 104-106, § 569(c)(2)(C), inserted “or under chapter 76 of title 10” after “section 555 of this title”.

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

1973—Subsec. (a). Pub. L. 93-26 provided for full effectiveness for all purposes of promotion of a member while he is in a missing status notwithstanding a determination of the Secretary of death of the member before the making of the promotion.

1972—Subsec. (a). Pub. L. 92-482 designated existing provisions as cl. (1), added cl. (2), and struck out provisions relating to effectiveness of the promotion of a member of the uniformed services while he is in a missing status and the Secretary concerned determines under section 556(b) of this title that the member died before the promotion was made.

1971—Subsec. (a). Pub. L. 92-169 provided that promotion of a member of the uniformed services while he is in a missing status is fully effective for all purposes even though the Secretary concerned determines that the member died before the promotion was made.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2 of Pub. L. 93-26 provided that: “For the purposes of chapter 13 [§1301 et seq.] of title 38, United States Code, this Act [amending this section] becomes effective as of November 24, 1971. For all other purposes this Act becomes effective as of February 28, 1961.”

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-169 effective for the purposes of chapter 13 (§1301 et seq.) of Title 38, Veterans' Benefits, on Nov. 24, 1971, and for all other purposes effective as of Feb. 28, 1961, see section 3 of Pub. L. 92-169, set out as a note under section 1302 of Title 38.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 553, 555, 556, 557, 559 of this title; title 26 sections 112, 6013.

**§ 553. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations**

(a) Notwithstanding the end of the period for which it was made, an allotment, including one for the purchase of United States savings bonds, made by a member of a uniformed service before he was in a missing status may be continued for the period he is entitled to pay and allowances under section 552 of this title.

(b) When there is no allotment in effect, or when it is insufficient for a purpose authorized by the Secretary concerned, he, or his designee, may authorize new allotments or increases in allotments that are warranted by the circumstances and payable for the period the member is entitled to pay and allowances under section 552 of this title.

(c) The total of all allotments from the pay and allowances of a member in a missing status may not be more than the amount of pay and allowances he is permitted to allot under regulations prescribed by the Secretary concerned.

(d) A premium paid by the United States on insurance issued on the life of a member which is unearned because it covers a period after his death reverts to the appropriation of the department concerned.

(e) Subject to subsections (f) and (g), the Secretary concerned, or his designee, may, when he considers it in the interest of the member, his dependents, or the United States, direct the initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of payments of allotments from the pay and allowances of a member entitled to pay and allowances under section 552 of this title.

(f) When the Secretary concerned officially reports that a member in a missing status is alive, the payments of allotments authorized by subsections (a)–(d) may, subject to section 552 of this title, be made until the date on which, in a case covered by section 555 of this title, the Secretary concerned receives evidence, or, in a case covered by chapter 76 of title 10, the Secretary concerned determines pursuant to that chapter, that the member is dead or has returned to the controllable jurisdiction of the department concerned.

(g) A member in a missing status who is continued in that status under section 555 of this title or under chapter 76 of title 10 is entitled to have the payments of allotments authorized by subsections (a)–(d) continued, increased, or initiated.

(h) When the Secretary concerned considers it essential for the well-being and protection of the dependents of a member on active duty (other than a member entitled to pay and allowances under section 552 of this title), he may, with or without the consent, and subject to termination at the request, of the member—

- (1) direct the payment of a new allotment from the pay of the member;
- (2) increase or decrease the amount of an allotment made by the member; and
- (3) continue payment of an allotment of the member which has expired.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 626; amended Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title V, § 569(c)(3), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
553(a) .....	50 App. 1003 (1st sentence).	Mar. 7, 1942, ch. 166, § 3, 56 Stat. 144; Dec. 24, 1942, ch. 828, § 1 (1st par.), Stat. 1092; July 1, 1944, ch. 371, § 3, 58 Stat. 680.
553(b) .....	50 App. 1003 (2d sentence, less provisos).	
553(c) .....	50 App. 1003 (1st proviso of 2d sentence).	
553(d) .....	50 App. 1003 (2d proviso of 2d sentence).	
553(e) .....	50 App. 1004.	Mar. 7, 1942, ch. 166, § 4, 56 Stat. 144; Dec. 24, 1942, ch. 828, § 1 (2d par.), 56 Stat. 1093; July 1, 1944, ch. 371, § 4, 58 Stat. 680.
553(f) .....	50 App. 1006 (1st sentence). 50 App. 1014 (as applicable to § 1006 (1st sentence)).	Mar. 7, 1942, ch. 166, § 6 (1st sentence and 2d sentence, as applicable to allotments); added Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093; Apr. 4, 1953, ch. 17, § 1(b), 67 Stat. 21; Aug. 14, 1964, Pub. L. 88-428, § 1(5), 78 Stat. 437.
553(g) .....	50 App. 1006 (2d sentence, as applicable to allotments).	

## HISTORICAL AND REVISION NOTES—Continued

Revised section	Source (U.S. Code)	Source (Statutes at Large)
553(h) .....	50 App. 1007.	Mar. 7, 1942, ch. 166, § 7, 56 Stat. 145; Aug. 14, 1964, Pub. L. 88-428, § 1(6), 78 Stat. 437. Mar. 7, 1942, ch. 166, § 14 (as applicable to § 6 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words “a member of a uniformed service . . . in a missing status . . . he . . . under section 552 of this title” are substituted for “any person . . . under section 2 of this Act . . . his absence”, for clarity and to conform to the definition in revised section 551(2) of this chapter. The words “except as otherwise herein provided” are omitted as unnecessary.

In subsection (b), the words “Secretary concerned, he, or his designee,” are substituted for “head of the department concerned . . . head of the department concerned, or such subordinate as he may designate” to conform to the definition in 37 U.S.C. 101(5). The word “member” is substituted for “person” to conform to the definition in 37 U.S.C. 101(23).

In subsection (c), the words “in effect” are omitted as unnecessary. The words “member in a missing status” are substituted for “absent person” to conform to the definition in revised section 551(2) of this chapter.

In subsection (d), the words “United States” are substituted for “Government” to conform to the style of title 37. The word “member” is substituted for “person” to conform to the definition in 37 U.S.C. 101(23).

In subsection (e), the words “Secretary concerned, or his designee,” are substituted for “head of the department concerned, or such subordinates as he may designate,” to conform to the definition in 37 U.S.C. 101(5). The words “United States” are substituted for “Government” to conform to the style of title 37. The words “when he considers it” are substituted for “When circumstances are deemed to justify such action”. The word “member” is substituted for “person”.

In subsection (f), the words “When the Secretary concerned officially reports that a member in a missing status” are substituted for “When it is officially reported by the head of the department concerned that a person missing under the conditions specified in section 2 of this Act”. The words “the payments of allotments authorized by subsections (a)–(d) of this section may, subject to section 552 of this title . . . until the date the Secretary concerned” are substituted for “the payments authorized by section 3 of this Act are, subject to the provisions of section 2 of this Act, authorized to be made for a period not to extend beyond the date of the receipt by the head of the department concerned”. The words “the member” are substituted for “the missing person”.

In subsection (g), the words “A member in a missing status” are substituted for “a person missing under the conditions specified in section 2 of this Act”.

In subsection (h), the words “Secretary concerned” are substituted for “head of the department concerned.” The words “a member on active duty” are substituted for “of persons in active service” to conform to the definitions in 37 U.S.C. 101(20) and (23). In clause (2), the words “heretofore or hereafter” are omitted as unnecessary.

## AMENDMENTS

1996—Subsec. (f). Pub. L. 104-106, § 569(c)(3)(A), substituted “the date on which, in a case covered by section 555 of this title, the Secretary concerned receives evidence, or, in a case covered by chapter 76 of title 10,

the Secretary concerned determines pursuant to that chapter, that” for “the date the Secretary concerned receives evidence that”.

Subsec. (g). Pub. L. 104-106, § 569(c)(3)(B), inserted “or under chapter 76 of title 10” after “section 555 of this title”.

1991—Subsecs. (e) to (g). Pub. L. 102-25 struck out “of this section” after “subsections (f) and (g)” in subsec. (e) and after “subsections (a)–(d)” in subsecs. (f) and (g).

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 557, 559 of this title; title 10 section 1524.

**§ 554. Travel and transportation; dependents; household and personal effects; trailers; additional movements; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable**

(a) In this section, “household and personal effects” and “household effects” may include, in addition to other authorized weight allowances, one privately owned motor vehicle which may be shipped at United States expense. Under regulations prescribed by the Secretaries concerned, and in place of the transportation of household and personal effects, a dependent, who would otherwise be entitled to transportation of household and personal effects under this section, may transport a house trailer or mobile dwelling within and between the areas specified in section 409 of this title for use as a residence by one of the following means—

(1) transport it and be reimbursed by the United States;

(2) deliver it to an agent of the United States for transportation by the United States or by commercial means; or

(3) have it transported by commercial means, and be reimbursed by the United States.

If a trailer or dwelling is transported under clause (2) or (3), that transportation may include one privately owned motor vehicle which may be shipped at United States expense. Transportation, and incidental costs, authorized by this section shall be at United States expense without any cost limitation, and any payment authorized may be made in advance of the transportation concerned.

(b) Transportation (including packing, crating, drayage, temporary storage, and unpacking of household and personal effects) may be provided for the dependents and household and personal effects of a member of a uniformed service on active duty (without regard to pay grade) who is officially reported as dead, injured, ill, or absent for a period of more than 29 days in a missing status—

(1) to the member’s official residence of record;

(2) to the residence of his dependent, next of kin, or other person entitled to custody of the effects, under regulations prescribed by the Secretary concerned; or

(3) on request of the member (if injured or ill), or his dependent, next of kin, or other person described in clause (2), to another location determined in advance or later approved by the Secretary concerned, or his designee.

When he considers it necessary, the Secretary concerned may, with respect to the household and personal effects of a member who is officially reported as absent for a period of more than 29 days in a missing status, authorize the nontemporary storage of those effects for a period of one year, or longer when justified. In addition, he may authorize additional movements of, and prescribe transportation for, the dependents and household and personal effects, or the dependents and house trailer or mobile dwelling, of a member who is officially reported as absent for a period of more than one year in a missing status.

(c) When a member described in subsection (b) is in an injured or ill status, transportation of dependents and household and personal effects authorized by this section may be provided only when prolonged hospitalization or treatment is anticipated.

(d) Transportation requested by a dependent may be authorized under this section only if there is a reasonable relationship between the circumstances of the dependent and the requested destination.

(e) In place of the transportation for dependents authorized by this section, and after the travel is completed, the Secretary concerned may authorize—

(1) reimbursement for the commercial cost of the transportation; or

(2) a monetary allowance at the prescribed rate for all, or that part, of the travel for which transportation in kind is not furnished.

(f) The Secretary concerned may store the household and personal effects of a member described in subsection (b) until proper disposition can be made. The cost of the storage and transportation (including packing, crating, drayage, temporary storage, and unpacking) of household and personal effects shall be charged against appropriations currently available.

(g) The Secretary concerned may, when he determines that there is an emergency and a sale would be in the best interests of the United States, provide for the public or private sale of motor vehicles and other bulky items of household and personal effects of a member described in subsection (b). Before a sale, and if practicable, a reasonable effort shall be made to determine the desires of the interested persons. The net proceeds received from the sale shall, under regulations prescribed by the Secretary concerned, be sent to the owner or other persons. If there are no such persons, or if they or their addresses are not known within one year from the date of sale, the net proceeds may be covered into the Treasury as miscellaneous receipts.

(h) Claims for net proceeds that are covered into the Treasury under subsection (g) may be filed with the Secretary of Defense by the rightful owners, their heirs or next of kin, or their legal representatives at any time before the end of a 5-year period from the date the proceeds are covered into the Treasury. When a claim is filed, the Secretary of Defense shall allow or disallow it. A claim that is allowed shall be paid from the appropriation for refunding money erroneously

received and covered. If a claim is not filed before the end of the 5-year period from the date the proceeds are covered into the Treasury, it is barred from being acted on by the courts or the Secretary of Defense.

(i) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this section does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the dependent for expenses incurred after that date to rent a motor vehicle for the dependent's use. The amount reimbursed may not exceed \$30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first).

(j) This section does not amend or repeal—

(1) section 2575, 2733, 4712, 6522, or 9712 of title 10;

(2) section 507 of title 14; or

(3) chapter 171 of title 28.

(Added Pub. L. 89-554, §5(b), Sept. 6, 1966, 80 Stat. 627; amended Pub. L. 90-83, §5(2), Sept. 11, 1967, 81 Stat. 221; Pub. L. 90-236, Jan. 2, 1968, 81 Stat. 764; Pub. L. 90-623, §3(7), Oct. 22, 1968, 82 Stat. 1315; Pub. L. 92-477, §1, Oct. 9, 1972, 86 Stat. 793; Pub. L. 93-548, §3, Dec. 26, 1974, 88 Stat. 1743; Pub. L. 102-25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title X, §1063(a), Dec. 5, 1991, 105 Stat. 1476; Pub. L. 104-316, title II, §202(s), Oct. 19, 1996, 110 Stat. 3845; Pub. L. 105-261, div. A, title VI, §653(d), Oct. 17, 1998, 112 Stat. 2052.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
554(a) .....	50 App. 1012 (14th sentence).	Mar. 7, 1942, ch. 166, §12, 56 Stat. 146; Feb. 12, 1946, ch. 6, §1(a), 60 Stat. 5; Aug. 29, 1951, ch. 356, §1, 65 Stat. 207; Apr. 4, 1953, ch. 17, §1(d), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, §1(d), 71 Stat. 492; Aug. 14, 1964, Pub. L. 88-428, §1(8), 78 Stat. 437.
554(b) .....	50 App. 1012 (1st sentence).	Mar. 7, 1942, ch. 166, §14 (as applicable to §12 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
	50 App. 1014 (as applicable to §1012 (1st sentence)).	
554(c) .....	50 App. 1012 (12th sentence).	
554(d) .....	50 App. 1012 (13th sentence).	
554(e) .....	50 App. 1012 (11th sentence).	
554(f) .....	50 App. 1012 (9th and 10th sentences).	
554(g) .....	50 App. 1012 (2d-4th sentences).	
554(h) .....	50 App. 1012 (5th-7th sentences).	
554(i) .....	50 App. 1012 (8th sentence).	

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words "Beginning June 25, 1950, and" are omitted as executed. The words "In this section" are substituted for "for the purposes of this section only, the terms". The words "not to exceed" are omitted as unnecessary. The words "outside the United States, or in Alaska or Hawaii" are substituted for



“outside the continental limits of the United States or in Alaska” to conform to the definition in 37 U.S.C. 101(1).

In subsection (b), the words “Transportation . . . may be provided” are substituted for “may be moved”. The words “a member of a uniformed service on active duty . . . or absent for a period of more than 29 days in a missing status” are substituted for “any person in active service . . . absent for a period of thirty days or more in any status listed in section 2 of this Act”, for clarity and to conform to the definitions in 37 U.S.C. 101(20) and (23) and revised section 551(2) of this chapter. In clause (1), the words “the member’s” are substituted for “for any such person”. In clause (2), the words “under . . . prescribed . . . Secretary concerned” are substituted for “in accordance with . . . issued . . . head of the department concerned”. In clause (3), the words “on request of the member” are substituted for “upon the person’s application”. The words “other person described in clause (2)” are substituted for “such . . . other person”. The words “Secretary concerned, or his designee” are substituted for “head of the department concerned or by such person as he may designate”.

In subsection (c), the words “a member described in subsection (b) of this section” are substituted for “the person”. The words “transportation . . . authorized by this section” are substituted for “the movement . . . provided for herein”. The words “provided . . . when” are substituted for “authorized . . . in cases where”.

In subsection (d), the words “requested by a dependent may be authorized under . . . only” are substituted for “No . . . shall be authorized pursuant to . . . upon application by dependents unless”. The words “condition and” are omitted as unnecessary.

In subsection (e), the words “In place . . . the Secretary concerned” are substituted for “In lieu . . . the head of the department concerned”. In clause (1), the words “reimbursement for” are substituted for “the payment in money of amounts equal to”. The words “in lieu of transportation”, the second time they appear, are omitted as unnecessary. In clause (2), the words “at the prescribed rate” are substituted for “as authorized by law”.

In subsection (f), the words “Secretary concerned” are substituted for “head of the department concerned”. The words “a member described in subsection (b) of this section” are substituted for “the person”. The words “such time as” are omitted as unnecessary.

In subsection (g), the words “Secretary concerned” are substituted for “head of the department concerned”, in 50 App. U.S.C. 1012 (2nd and 4th sentences). The words “United States” are substituted for “Government”; and the words “a member described in subsection (b) of this section” are substituted for “the person”, in 50 App. U.S.C. 1012 (2d sentence). The words “under . . . prescribed” are substituted for “in accordance with . . . issued”, and the word “known” is substituted for “ascertainable”, in 50 App. U.S.C. 1012 (4th sentence).

In subsection (h), the words “under subsection (g) of this section” are substituted for “under the authority of this section”, in 50 App. U.S.C. 1012 (5th sentence).

In subsection (i), the words “the provisions of” are omitted as unnecessary. Clause (3) is substituted for “the Federal Tort Claims Act (60 Stat. 842-847), as amended,” to reflect the correct citation of that Act.

#### AMENDMENTS

1998—Subsecs. (i), (j). Pub. L. 105-261 added subsec. (i) and redesignated former subsec. (i) as (j).

1996—Subsec. (h). Pub. L. 104-316 substituted “Secretary of Defense” for “General Accounting Office” wherever appearing.

1991—Subsec. (a). Pub. L. 102-25, § 702(b)(2), struck out “of this subsection” after “clause (2) or (3)”.

Subsecs. (c), (f) to (h). Pub. L. 102-25, § 702(b)(1), struck out “of this section” after “subsection (b)” in

subsecs. (c), (f), (g), and (h) and after “subsection (g)” in subsec. (h).

Subsec. (i)(1). Pub. L. 102-190 substituted “6522, or 9712” for “4713, 6522, 9712, or 9713”.

1974—Subsec. (b). Pub. L. 93-548, § 3(1)(A), inserted “ill,” after “injured.”

Subsec. (b)(3). Pub. L. 93-548, § 3(1)(B), inserted “or ill” after “injured”.

Subsec. (c). Pub. L. 93-548, § 3(2), inserted “or ill” before “status”.

1972—Pub. L. 92-477, § 1(1), inserted “trailers; additional movements;” after “household and personal effects;” in section catchline.

Subsec. (a). Pub. L. 92-477, § 1(2), authorized at Government expense without cost limitation and under prescribed regulations the transportation of house trailers or mobile dwellings, including a privately owned motor vehicle, in place of household and personal effects of members in a missing status.

Subsec. (b). Pub. L. 92-477, § 1(3), authorized additional movements of and transportation for dependents and household and personal effects, or dependents and house trailer or mobile dwelling of members in a missing status for more than one year.

1968—Subsec. (b). Pub. L. 90-623 substituted “29” for “twenty-nine”.

Pub. L. 90-236 inserted provision authorizing non-temporary storage of household and personal effects of a member who is officially reported as absent for a period of more than 29 days in a missing status.

1967—Subsec. (a). Pub. L. 90-83 struck out “when it is located outside the United States, or in Alaska or Hawaii” after “shipped at United States expense”.

#### EFFECTIVE DATE OF 1998 AMENDMENT

For provisions relating to the applicability of amendment by Pub. L. 105-261, see section 653(e) of Pub. L. 105-261, set out as a note under section 2634 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Section 4 of Pub. L. 93-548 provided that: “The amendments made by section 3 of this Act [amending this section] shall apply with respect to members of the uniformed services incapacitated by illness on or after January 1, 1974.”

#### EFFECTIVE DATE OF 1968 AMENDMENT

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

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 407 of this title.

### § 555. Secretarial review

(a) Except as provided in subsection (d), when a member of a uniformed service entitled to pay and allowances under section 552 of this title has been in a missing status, and the official report of his death or of the circumstances of his absence has not been received by the Secretary concerned, he shall, before the end of a 12-month period in that status, have the case fully reviewed. After that review and the end of the 12-month period in a missing status, or after a later review which shall be made when warranted by information received or other circumstances, the Secretary concerned, or his designee, may—

(1) if the member can reasonably be presumed to be living, direct a continuance of his missing status; or

(2) make a finding of death.

(b) When a finding of death is made under subsection (a), it shall include the date death is presumed to have occurred for the purpose of—

- (1) ending the crediting of pay and allowances;
- (2) settlement of accounts; and
- (3) payment of death gratuities.

That date is—

(A) the day after the day on which the 12-month period in a missing status ends; or

(B) if the missing status has been continued under subsection (a), the day determined by the Secretary concerned, or his designee.

(c) For the sole purpose of determining status under this section, a dependent of a member on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(d) This section does not apply in a case to which section 1502 of title 10 applies.

(Added Pub. L. 89-554, §5(b), Sept. 6, 1966, 80 Stat. 628; amended Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title V, §569(c)(1), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
555(a) .....	50 App. 1005 (1st and 2d sentences).	Mar. 7, 1942, ch. 166, §5, 56 Stat. 145; Dec. 24, 1942, ch. 828, §1 (3d par.), 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88-428, §1(4), 78 Stat. 437.
	50 App. 1014 (as applicable to §1005 (1st sentence)).	Mar. 7, 1942, ch. 166, §14 (as applicable to §5 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
555(b) .....	50 App. 1005 (less 1st and 2d sentences).	
555(c) .....	50 App. 1009(b) (as applicable to §1005).	Mar. 7, 1942, ch. 166, §9(b) (as applicable to §5); added Aug. 29, 1957, Pub. L. 85-217, §1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words “member of a uniformed service” are substituted for “person”. The words “in a missing status” and “in that status” are substituted for “absence” in three places. The words “Secretary concerned” are substituted for “head of the department concerned” in two places. In the second sentence, the words “or his designee” are supplied on authority of 50 App. U.S.C. 1009 which is codified in part in revised section 556(a) of this chapter. In clause (1), the words “member” and “his” are substituted for “person’s” and “person”, respectively.

In subsection (b), the words “under subsection (a) of this section” are inserted for clarity. In clause (A), the words “day on which the 12-month period in a missing status ends” are substituted for “day of expiration of an absence of twelve months”. In clause (B), the words “under subsection (a) of this section” are substituted for “as hereinbefore authorized”. The words “Secretary concerned” are substituted for “head of the department concerned.” The words “or his designee” are supplied

on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter.

In subsection (c), the first sentence is substituted for 50 App. U.S.C. 1009(b) (1st 31 words, as applicable to §1005). The words “Secretary concerned” are substituted for “head of the department concerned”. The words “or his designee” are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter. The words “departments and agencies of the United States” are substituted for “departments of the Government” in view of the definition of “department” in 50 App. U.S.C. 1001(d). The words “This subsection does not entitle” are substituted for “Provided, That nothing in this section shall be construed as conferring . . . any right”.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-106, §569(c)(1)(A), substituted “Except as provided in subsection (d), when” for “When”.

Subsec. (d). Pub. L. 104-106, §569(c)(1)(B), added subsec. (d).

1991—Subsec. (b). Pub. L. 102-25 struck out “of this section” after “subsection (a)” in two places.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 552, 553, 556, 557 of this title; title 10 section 701.

§ 556. Secretarial determinations

(a) The Secretary concerned, or his designee, may make any determination necessary to administer this chapter and, when so made, it is conclusive as to—

- (1) death or finding of death;
- (2) the fact of dependency under this chapter;

(3) the fact of dependency for the purpose of paying six months’ death gratuities authorized by law;

(4) the fact of dependency under any other law authorizing the payment of pay, allowances, or other emoluments to enlisted members of the armed forces, when the payments are contingent on dependency;

(5) any other status covered by this chapter;

(6) an essential date, including one on which evidence or information is received by the Secretary concerned; and

(7) whether information received concerning a member of a uniformed service is to be construed and acted on as an official report of death.

Paragraphs (1), (5), (6), and (7) only apply with respect to a case to which section 555 of this title applies.

(b) When the Secretary concerned, in a case to which section 555 of this title applies, receives information that he considers establishes conclusively the death of a member of a uniformed service, he shall, notwithstanding any earlier action relating to death or other status of the member, act on it as an official report of death. After the end of the 12-month period in a missing status prescribed by section 555 of this title, the Secretary concerned, or his designee, shall, when he considers that the information received, or a lapse of time without information, establishes a reasonable presumption that a member in a missing status is dead, make a finding of death.

(c) The Secretary concerned, or his designee, may determine the entitlement of a member to

pay and allowances under this chapter, including credits and charges in his account, and that determination is conclusive. An account may not be charged or debited with an amount that a member captured, beleaguered, or besieged by a hostile force may receive or be entitled to receive from, or have placed to his credit by, the hostile force as pay, allowances, or other compensation.

(d) The Secretary concerned, or his designee, may, when warranted by the circumstances, reconsider a determination made under this chapter, and change or modify it.

(e) When the account of a member has been charged or debited with an allotment paid under this chapter, the amount so charged or debited shall be credited to the account of the member if the Secretary concerned, or his designee, determines that the payment was induced by fraud or misrepresentation to which the member was not a party.

(f) Except an allotment for an unearned insurance premium, an allotment paid from pay and allowances of a member for the period he is entitled to pay and allowances under section 552 of this title may not be collected from the allottee as an overpayment when it was caused by delay in receiving evidence of death. An allotment payment for a period after the end of entitlement to pay and allowances under this chapter, or otherwise, which was caused by delay in receiving evidence of death, may not be collected from the allottee or charged against the pay of the deceased member.

(g) The Secretary concerned, or his designee, may waive the recovery of an erroneous payment or overpayment of an allotment to a dependent if he considers recovery is against equity and good conscience.

(h) For the sole purpose of determining pay under this section, a dependent of a member of a uniformed service on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section in a case to which section 555 of this title applies is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Added Pub. L. 89-554, §5(b), Sept. 6, 1966, 80 Stat. 629; amended Pub. L. 104-106, div. A, title V, §569(c)(4), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES—Continued

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
556(c) .....	50 App. 1009(a) (6th sentence, less last proviso). 50 App. 1014 (as applicable to §1009(a) (1st proviso of 6th sentence)).	Mar. 7, 1942, ch. 166, §14 (as applicable to §9(a) (1st proviso of 6th sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
556(d) .....	50 App. 1009(a) (7th sentence).	
556(e) .....	50 App. 1009(a) (last proviso of 6th sentence).	
556(f) .....	50 App. 1009(a) (8th sentence).	
556(g) .....	50 App. 1009(a) (9th sentence).	
556(h) .....	50 App. 1009(b) (as applicable to §1009).	Mar. 7, 1942, ch. 166, §9(b) (as applicable to §9); added Aug. 29, 1957, Pub. L. 85-217, §1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words “Secretary concerned, or his designee,” are substituted for “head of the department concerned, or such subordinate as he may designate.”. The words “for the purposes of this Act” are omitted as unnecessary. The words “final and” in 50 App. U.S.C. 1010 are omitted as unnecessary and for consistency with 50 App. U.S.C. 1009(a) (1st sentence). In clause (2), the words “under this chapter” are substituted for “under the provisions of this Act”. In clause (4), the words “enlisted members of the armed forces” are substituted for “enlisted personnel in the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States” to conform to the definition in 37 U.S.C. 101(4). In clause (5), the words “covered by this chapter” are substituted for “dealt with by this Act”. In clause (6), the words “by the Secretary concerned” are substituted for “in such department or by the head thereof”. In clause (7), the word “member” is substituted for “person”.

In subsection (b), the words “Secretary concerned . . . a member of a uniformed service, he shall . . . the member, act on it” are substituted for “any person . . . department concerned, action shall be taken thereon . . . such person”. In the second sentence, the words “After the end of the 12-month period in a missing status” are substituted for “If the twelve months’ absence . . . has expired”. The words “the Secretary concerned, or his designee” are inserted for clarity. The words “a member” are substituted for “any person”. The words “missing status” are substituted for “missing or other status” in view of the definition in revised section 551(2) of this chapter. The words “is dead” are substituted for “is no longer alive” for consistency with references in this section to “death”.

In subsection (c), the words “Secretary concerned, or his designee . . . may . . . a member . . . under this chapter” are substituted for “head of the department concerned, or by such subordinate as he may designate . . . are authorized to . . . any person . . . under provisions of this Act”. The words “a member” are substituted for “any person”. The words “captured, beleaguered, or besieged by a hostile force” are substituted for “in the hands of a hostile force” on authority of 50 App. U.S.C. 1014.

In subsection (d), the words “Secretary concerned, or his designee” are substituted for “head of the department concerned, or such subordinate as he may designate”. The words “under this chapter” are substituted for “authorized to be made by this Act”.

In subsection (e), the words “a member . . . allotment paid under this chapter” are substituted for “any person . . . allotments paid pursuant to this Act”. The words “the member if the Secretary concerned, or his designee . . . the payment . . . the member” are sub-

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
556(a) .....	50 App. 1009(a) (1st and 2d sentences).  50 App. 1010.	Mar. 7, 1942, ch. 166, §9(a) (less 5th and last sentences); added July 1, 1944, ch. 371, §5, 58 Stat. 680; Apr. 4, 1953, ch. 17, §1(c), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, §1(c), 71 Stat. 492.  Mar. 7, 1942, ch. 166, §10, 56 Stat. 145; July 1, 1944, ch. 371, §6, 58 Stat. 681; Aug. 14, 1964, Pub. L. 88-428, §1(7), 78 Stat. 437.
556(b) .....	50 App. 1009(a) (3d and 4th sentences).	

stituted for “such person’s . . . in any case in which . . . the head of the department concerned, or such subordinate as he may designate . . . such person”.

In subsection (f), the words “may not be collected” are substituted for “shall not be subject to collection” in two places. The word “member” is substituted for “person”.

In subsection (g), the words “Secretary concerned, or his designee,” are substituted for “head of the department concerned, or such subordinate as he may designate.”

In subsection (h), the first sentence is substituted for 50 App. U.S.C. 1009(b) (1st 33 words, as applicable to §1009). The words “Secretary concerned” are substituted for “head of the department concerned.” The words “or his designee” are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter. The words “departments and agencies of the United States” are substituted for “departments of the Government” in view of the definition of “department” in 50 App. U.S.C. 1001(b). The words “This subsection does not entitle” are substituted for “*Provided*, That nothing in this section shall be construed as conferring . . . any right”.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-106, §569(c)(4)(A), inserted concluding provisions.

Subsec. (b). Pub. L. 104-106, §569(c)(4)(B), inserted “, in a case to which section 555 of this title applies,” after “When the Secretary concerned”.

Subsec. (h). Pub. L. 104-106, §569(c)(4)(C), substituted “determining pay” for “determining status” and inserted “in a case to which section 555 of this title applies” after “designee, under this section”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 559 of this title; title 10 section 701; title 26 sections 2, 692; title 38 sections 3501, 3701, 4101.

§ 557. Settlement of accounts

(a) The Secretary concerned, or his designee, may settle the account of—

(1) a member of a uniformed service for whose account payments have been made under sections 552, 553, and 555 of this title; and

(2) a survivor of a casualty to a ship, station, or military installation which results in the loss or destruction of disbursing records.

That settlement is conclusive on the accounting officers of the United States in settling the accounts of disbursing officers.

(b) Payment or settlement of an account made pursuant to a report, determination, or finding of death may not be recovered or reopened because of a later report or determination which fixes a date of death. However, an account shall be reopened and settled on the basis of a date of death so fixed which is later than that used as a basis for earlier settlements.

(c) In the settlement of his accounts, a disbursing officer is entitled, if there is no fraud or criminality by him, to credit for an erroneous payment or overpayment he made in carrying out this chapter, except section 558 of this title. Unless there is fraud or criminality by him, recovery may not be made from a civilian officer or employee or a member of a uniformed service who authorizes a payment under this chapter, except section 558 of this title.

(Added Pub. L. 89-554, §5(b), Sept. 6, 1966, 80 Stat. 630; amended Pub. L. 99-145, title XIII, §1303(b)(11), Nov. 8, 1985, 99 Stat. 741.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
557(a) .....	50 App. 1011.	Mar. 7, 1942, ch. 166, §11, 56 Stat. 146.
557(b) .....	50 App. 1009(a) (5th sentence).	Mar. 7, 1942, ch. 166, §9(a) (5th and last sentences); added July 1, 1944, ch. 371, §5, 58 Stat. 680; Aug. 29, 1957, Pub. L. 85-217, §1(c), 71 Stat. 492.
557(c) .....	50 App. 1009(a) (last sentence).	

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words “Secretary concerned, or his designee,” are substituted for “head of the department concerned, or such person as he may designate.”. The words “a member of a uniformed service” are substituted for “persons”. The words “United States” are substituted for “Government”.

In subsection (c), the words “in carrying out this chapter, except section 558” are substituted for “in carrying out the provisions of this Act, except sections 13, 16, 17, and 18”, since sections 16 and 17 are scheduled for repeal (see Table II) and section 18 was previously repealed. The words “under this chapter, except section 558” are substituted for “under such provisions” for the reasons stated in the preceding sentence.

AMENDMENTS

1985—Subsec. (c). Pub. L. 99-145 inserted “of this title” after “558” in two places.

§ 558. Income tax deferral

Notwithstanding any other provision of law, a Federal income tax return of, or the payment of a Federal income tax by, a member of a uniformed service who, at the time the return or payment would otherwise become due, is in a missing status, does not become due until the earlier of the following dates—

(1) the fifteenth day of the third month in which he ceased (except by reason of death or incompetency) being in a missing status, unless before the end of that fifteenth day he is again in a missing status; or

(2) the fifteenth day of the third month after the month in which an executor, administrator, or conservator of the estate of the taxpayer is appointed.

That due date is prescribed subject to the power of the Secretary of the Treasury or his delegate to extend the time for filing the return or paying the tax, as in other cases, and to assess and collect the tax as provided by sections 6851, 6861, and 6871 of the Internal Revenue Code of 1986 in cases in which the assessment or collection is jeopardized and in cases of bankruptcy or receivership.

(Added Pub. L. 89-554, §5(b), Sept. 6, 1966, 80 Stat. 631; amended Pub. L. 96-513, title V, §516(16), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 100-26, §8(c), Apr. 21, 1987, 101 Stat. 285.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
558 .....	50 App. 1013.	Mar. 7, 1942, ch. 166, §13, 56 Stat. 146; Aug. 8, 1947, ch. 515, §6, 61 Stat. 918; Aug. 14, 1964, Pub. L. 88-428, §1(9), 78 Stat. 437.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

The words “in the case of any taxable year beginning after December 31, 1940” are omitted as unnecessary.

The words “as defined in section 101(3) and (23) of title 37, United States Code” are omitted as unnecessary since the revised section is codified in title 37. The words “in a missing status” are substituted for “absent from his duty station under the conditions specified in section 2 of the Act” to conform to the definition in revised section 551(3) of this chapter and in view of the provisions of revised section 552 establishing the entitlement of a member in a missing status to receive pay and allowances or have them credited to his account. Reference to “title 26” is substituted for “Internal Revenue Code of 1954”.

#### REFERENCES IN TEXT

Sections 6851, 6861, and 6871 of the Internal Revenue Code of 1986, referred to in text, are classified to sections 6851, 6861, and 6871, respectively, of Title 26, Internal Revenue Code.

#### AMENDMENTS

1987—Pub. L. 100-26 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” in last sentence.

1980—Pub. L. 96-513 substituted “the Internal Revenue Code of 1954” for “title 26”.

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 557 of this title.

### § 559. Benefits for members held as captives

(a) In this section:

(1) The term “captive status” means a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after August 27, 1986, monetary payment in respect of such period of captivity.

(2) The term “former captive” means a person who, as a member of the uniformed services, was held in a captive status.

(b)(1) The Secretary of the Treasury shall establish a savings fund to which the Secretary concerned may allot all or any portion of the pay and allowances of any member of the uniformed services who is in a captive status to the extent that such pay and allowances are not subject to an allotment under section 553 of this title or any other provision of law.

(2) Amounts so allotted shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be computed quarterly.

(3) Amounts in the savings fund credited to a member shall be considered as pay and allowances for purposes of section 553(c) of this title and shall otherwise be subject to withdrawal

under procedures which the Secretary of the Treasury shall establish.

(4) Any interest accruing under this subsection on—

(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

(B) any amount referred to in section 556(f) of this title shall be deemed to be part of such amount for purposes of such section.

(5) An allotment under this subsection may be made without regard to section 553(c) of this title.

(c)(1) Except as provided in paragraph (3), the President shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act (5 U.S.C. 5569 note), the amount of such payment shall be determined by the President under the provisions of section 5569(d)(2) of title 5.

(3)(A) The President—

(i) may defer such payment in the case of any former captive who during such one-year period is charged with an offense described in clause (ii), until final disposition of such charge; and

(ii) may deny such payment in the case of any former captive who is convicted of a captivity-related offense—

(I) referred to in subsection (b) or (c) of section 8312 of title 5; or

(II) under chapter 47 of title 10 (the Uniform Code of Military Justice) that is punishable by dishonorable discharge, dismissal, or confinement for one year or more.

(B) For the purposes of subparagraph (A), a captivity-related offense is an offense that is—

(i) committed by a person while the person is in a captive status; and

(ii) related to the captive status of the person.

(4) A payment under this subsection is in addition to any other amount provided by law.

(5) Any amount due a person under this subsection shall, after the death of such person, be deemed to be pay and allowances for the purposes of this chapter.

(6) Any payment made under paragraph (1) that is later denied under paragraph (3)(A)(ii) is a claim of the United States Government for purposes of section 3711 of title 31.

(d) A determination by the President under subsection (a)(1) or (c) is final and is not subject to judicial review.

(Added Pub. L. 99-399, title VIII, §806(a)(1), Aug. 27, 1986, 100 Stat. 884; amended Pub. L. 100-26, §8(e)(11), Apr. 21, 1987, 101 Stat. 287; Pub. L. 101-510, div. A, title XIV, §1484(d)(4), (e)(2), Nov. 5, 1990, 104 Stat. 1717; Pub. L. 102-25, title VII, §702(b)(1)-(4), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title X, §1054(a)(6), (c)(2), Oct. 23, 1992, 106 Stat. 2502.)

REFERENCES IN TEXT

Section 802 of the Victims of Terrorism Compensation Act, referred to in subsec. (c)(2), is section 802 of Pub. L. 99-399, which is set out as a note under section 5569 of Title 5, Government Organization and Employees.

AMENDMENTS

1992—Subsec. (c)(3)(A)(i). Pub. L. 102-484, § 1054(c)(2), made technical correction to directory language of Pub. L. 102-25, § 702(b)(4). See 1991 Amendment note below.

Pub. L. 102-484, § 1054(a)(6), made amendment identical to amendment by Pub. L. 102-25, § 702(b)(4). See 1991 Amendment note below.

1991—Subsec. (c)(1). Pub. L. 102-25, § 702(b)(2), struck out “of this subsection” after “paragraph (3)”.

Subsec. (c)(3)(A)(i). Pub. L. 102-25, § 702(b)(4), as amended by Pub. L. 102-484, § 1054(c)(2), struck out “of this subparagraph” after “clause (ii)”.

Subsec. (c)(3)(B). Pub. L. 102-25, § 702(b)(3), struck out “of this paragraph” after “subparagraph (A)”.

Subsec. (c)(6). Pub. L. 102-25, § 702(b)(2), struck out “of this subsection” after “paragraph (1)” and after “paragraph (3)(A)(ii)”.

Subsec. (d). Pub. L. 102-25, § 702(b)(1), struck out “of this section” after “(c)”.

1990—Subsec. (a)(1). Pub. L. 101-510, § 1484(d)(4), substituted “August 27, 1986” for “the date of the enactment of the Victims of Terrorism Compensation Act”.

Subsec. (c)(2). Pub. L. 101-510, § 1484(e)(2), inserted “(5 U.S.C. 5569 note)” after “Terrorism Compensation Act”.

1987—Subsec. (a). Pub. L. 100-26 substituted “In this section:” for “In this section—”, inserted “The term” at beginning of pars. (1) and (2), and substituted period for “; and” at end of par. (1).

EFFECTIVE DATE; PAYMENTS; INTEREST

Section 806(a)(3) of Pub. L. 99-399 provided that: “(A)(i) Except as provided in clause (ii), section 559 of title 37, United States Code, as added by paragraph (1), shall apply to any person whose captive status begins after January 21, 1981.

“(ii)(I) Subsection (c) of such section shall apply to any person whose captive status begins on or after November 4, 1979.

“(II) In the case of any person whose status as a captive terminated before the date of the enactment of this Act [Aug. 27, 1986], the President shall make a payment under paragraph (1) of such subsection before the end of the one-year period beginning on such date.

“(B) Amounts may be allotted to a savings fund established under such section from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

“(C) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.”

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 3 of Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, set out as a note under section 5569 of Title 5, Government Organization and Employees.

PAYMENT TO INDIVIDUALS HELD IN CAPTIVE STATUS BETWEEN NOVEMBER 4, 1979, AND JANUARY 21, 1981

For payment for individuals in the uniformed services referred to in subsec. (c) of this section held in captive status between Nov. 4, 1979, and Jan. 21, 1981, see section 802 of Pub. L. 99-399, set out as a note under section 5569 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1013 of this title; title 10 sections 1095a, 2181.

CHAPTER 11—PAYMENTS TO MENTALLY INCOMPETENT PERSONS

- Sec. 601. Applicability.
602. Payments: designation of person to receive amounts due.
603. Regulations.
604. Determination of Secretary final.

AMENDMENTS

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

§ 601. Applicability

This chapter applies to—

(1) members of a uniformed service who are on active duty (other than for training) or who are on a retired list of that service; and

(2) members of the Fleet Reserve or Fleet Marine Corps Reserve.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 483.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 1: 601, 37:351, June 21, 1950, ch. 342, § 1, 64 Stat. 249.

The words “on active duty (other than for training)” are substituted for the words “on the active . . . list” to conform to longstanding administrative construction, and because there is no “active list” in the case of many of the uniformed services named, but only for certain regular component of those services, e.g., the “Regular Army” and the “Regular Air Force”.

§ 602. Payments: designation of person to receive amounts due

(a) Active duty pay and allowances, amounts due for accrued or accumulated leave, or retired or retainer pay, that are otherwise payable to a member to whom this chapter applies and who, in the opinion of a board of medical officers or physicians, is mentally incapable of managing his affairs, may be paid for that member’s use or benefit to any person designated by the Secretary concerned, or by any officer to whom he delegates his authority under this section, without the appointment in judicial proceedings of a committee, guardian, or other legal representative.

(b) The board shall consist of at least three qualified medical officers or physicians, one of whom is specially qualified in the treatment of mental disorders, appointed from available medical officers or physicians under his jurisdiction by the head of whichever of the following is providing medical treatment for the member, or by a person designated by that head—

- (1) Department of the Army;
- (2) Department of the Navy;
- (3) Department of the Air Force;
- (4) Department of Health and Human Services; or
- (5) Department of Veterans Affairs.

If the hospitalization or medical care of the member is not provided by the United States, the board shall be appointed by the Secretary of the department having jurisdiction of the member.

(c) A payment made to a person who is designated under this section discharges the obligation of the United States as to the amount paid.

(d) A person serving in a legal, medical, fiduciary, or other capacity, may not demand or accept a fee, commission, or other charge for any service performed under this chapter.

(e) This section does not apply in any case in which a legal committee, guardian, or other representative has been appointed by a court of competent jurisdiction, except as to payments made before the paying agency of the department concerned receives notice of that appointment.

(f) A person who is designated to receive payments under this section shall furnish satisfactory assurance that the amounts received by him will be applied to the use and benefit of the incompetent member, and, where the payments may reasonably be expected to be more than \$1,000, shall provide a suitable bond to be paid for out of amounts due the incompetent member.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 483; Pub. L. 96-513, title V, §516(17), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 101-189, div. A, title XVI, §1621(b)(1), Nov. 29, 1989, 103 Stat. 1604.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
602(a) .....	37:352 (1st sentence, less 31 words before provisos and less provisos).	June 21, 1950, ch. 342, §§ 2, 3 (less 1st 28 words), 64 Stat. 249; Aug. 7, 1959, Pub. L. 86-145, §1, 73 Stat. 297.
602(b) .....	37:352 (last proviso of 1st sentence, 2d sentence, and last sentence).	
602(c) .....	37:352 (31 words before provisos of 1st sentence).	
602(d) .....	37:352 (1st proviso of 1st sentence).	
602(e) .....	37:352 (2d proviso of 1st sentence).	
602(f) .....	37:353 (less 1st 28 words).	

In subsection (a), the words "or persons" and "or officers" are omitted, since, under section 1 of title 1, "words importing the singular include and apply to several persons, parties, or things". The words "to whom he delegates his authority under this section" are substituted for the words "as the respective Secretaries may designate for such purposes" to obviate confusion between persons "designated to receive payments and those who perform the Secretary's functions under the section. The words "the necessity of" are omitted as surplusage.

In subsection (c), the words "or persons" are omitted for the reasons given in the preceding paragraph. The words "discharges the obligation" are substituted for the words "shall constitute a complete discharge".

In subsection (d), the words "under the authority of" are omitted as surplusage.

In subsection (e), the words "have been" and "including a requirement" are omitted as surplusage. The

words "or persons" are omitted for the reason stated in the explanation under subsection (a), above.

AMENDMENTS

1989—Subsec. (b)(5). Pub. L. 101-189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

1980—Subsec. (b)(4). Pub. L. 96-513 substituted "Department of Health and Human Services" for "Department of Health, Education, and Welfare".

EFFECTIVE DATE OF 1980 AMENDMENT

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

CROSS REFERENCES

Finality of determination of Secretary under this section, see section 604 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 604 of this title.

§ 603. Regulations

The Secretary concerned and the Secretary of Veterans Affairs shall prescribe regulations necessary to carry out this chapter.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 101-189, div. A, title XVI, §1621(b)(2), Nov. 29, 1989, 103 Stat. 1604.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
603 .....	37:353 (1st 28 words).	June 21, 1950, ch. 342, §3 (1st 28 words), 64 Stat. 249; Aug. 7, 1959, Pub. L. 86-145, §2, 73 Stat. 297.

The words "effectively" and "provisions of" are omitted as surplusage.

AMENDMENTS

1989—Pub. L. 101-189 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

§ 604. Determination of Secretary final

The determination as to the person authorized to receive a payment under section 602 of this title is final and is not subject to review by an official of the United States or a court.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 89-718, §66, Nov. 2, 1966, 80 Stat. 1123.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
604 .....	37:354.	June 21, 1950, ch. 342, §4, 64 Stat. 250.

The words "or persons" are omitted for the reasons stated in the revision note for section 602(a) of this revised title. The words "made by the respective secretaries, or by their duly designated subordinates" and the words "and conclusive" are omitted as surplusage.

AMENDMENTS

1966—Pub. L. 89-718 struck out "the" before "Secretary" in section catchline.

**CHAPTER 13—ALLOTMENTS AND ASSIGNMENTS OF PAY**

- Sec. 701. Members of the Army, Navy, Air Force, and Marine Corps; contract surgeons.
- [702. Repealed.]
- 703. Allotments: members of Coast Guard.
- 704. Allotments: officers of Public Health Service.
- [705. Repealed.]
- 706. Allotments: commissioned officers of the National Oceanic and Atmospheric Administration.
- 707. Allotments: members of the National Guard.

AMENDMENTS

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

1985—Pub. L. 99-145, title VI, §683(a)(3), (b)(2), Nov. 8, 1985, 99 Stat. 665, 666, included reference to the Navy and Marine Corps in item 701, and struck out item 702 “Allotments: officers of Navy or Marine Corps” and item 705 “Assignments: enlisted members of naval service”.

1980—Pub. L. 96-513, title V, §516(18)(C), Dec. 12, 1980, 94 Stat. 2939, substituted “Allotments: commissioned officers of the National Oceanic and Atmospheric Administration” for “Commissioned officers of Environmental Science Services Administration” in item 706.

1974—Pub. L. 93-289, §11(c), May 24, 1974, 88 Stat. 173, added item 707.

1966—Pub. L. 89-718, §49(a)(3), Nov. 2, 1966, 80 Stat. 1121, substituted “Environmental Science Services Administration for “Coast and Geodetic Survey” in item 706.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 665.

**§ 701. Members of the Army, Navy, Air Force, and Marine Corps; contract surgeons**

(a) Under regulations prescribed by the Secretary of the military department concerned, a commissioned officer of the Army, Navy, Air Force, or Marine Corps may transfer or assign his pay account, when due and payable.

(b) A contract surgeon, or contract dental surgeon, of the Army, Navy, or Air Force, on duty in Alaska, Hawaii, the Philippine Islands, or Puerto Rico, may transfer or assign his pay account, when due and payable, under the regulations prescribed under subsection (a).

(c) An enlisted member of the Army, Navy, Air Force, or Marine Corps may not assign his pay, and if he does so, the assignment is void.

(d) Under regulations prescribed by the Secretary of Defense, a member of the Army, Navy, Air Force, or Marine Corps and a contract surgeon of the Army, Navy, or Air Force may make allotments from the pay of the member or surgeon for the purpose of supporting relatives or for any other purpose that the Secretary considers proper. Such allotments may include a maximum of six allotments considered to be discretionary under such regulations. For a member or former member entitled to retired or retainer pay, a maximum of six discretionary allotments authorized during active military service may be continued into retired status, and new discretionary allotments may be authorized so long as the total number of discretionary allotments does not exceed six.

(e) If an allotment made under subsection (d) is paid to the allottee before the disbursing officer receives a notice of discontinuance from the officer required by regulation to furnish the notice, the amount of the allotment shall be credited to the disbursing officer. If an allotment is erroneously paid because the officer required by regulation to so report failed to report the death of the allotter or any other fact that makes the allotment not payable, the amount of the payment not recovered from the allottee shall, if practicable, be collected by the Secretary concerned from the officer who failed to make the report.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 89-718, §67, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 99-145, title VI, §683(a)(1), (2), Nov. 8, 1985, 99 Stat. 665; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-201, div. A, title VI, §651(a), Sept. 23, 1996, 110 Stat. 2582.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
701(a) .....	10:3689(a). 10:8689(a).	[None.] [None.]
701(b) .....	10:3689(b). 10:8689(b).	[None.] [None.]
701(c) .....	10:3689(c). 10:8689(c).	[None.] [None.]
701(d) .....	10:3689(d). 10:8689(d).	[None.] [None.]

AMENDMENTS

1996—Subsecs. (d), (e). Pub. L. 104-201 added subsecs. (d) and (e) and struck out former subsec. (d) which read as follows: “The Secretary of the military department concerned, may allow a—

“(1) member of the Army, Navy, Air Force, or Marine Corps; or

“(2) contract surgeon of the Army, Navy, or Air Force;

to make allotments from his pay for the support of his relatives, or for any other purpose that the Secretary concerned considers proper. If an allotment made under this subsection is paid to the allottee before the disbursing officer receives a notice of discontinuance from the officer required by regulation to furnish the notice, the amount of the allotment shall be credited to the disbursing officer. If an allotment is erroneously paid because the officer required by regulation to so report failed to report the death of the allotter or any other fact that makes the allotment not payable, the amount of the payment not recovered from the allottee shall, if practicable, be collected by the Secretary concerned, from the officer who failed to make the report.”

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

1985—Pub. L. 99-145, §683(a)(2), inserted reference to Navy and Marine Corps in section catchline.

Subsec. (a). Pub. L. 99-145, §683(a)(1)(A), (C), substituted “Secretary of the military department concerned” for “Secretary of the Army or the Secretary of the Air Force, as the case may be” and “commissioned officer of the Army, Navy, Air Force, or Marine Corps” for “commissioned officer of the Army or the Air Force”.

Subsec. (b). Pub. L. 99-145, §683(a)(1)(B), inserted reference to Navy.

Subsec. (c). Pub. L. 99-145, §683(a)(1)(A), inserted reference to Navy and Marine Corps.

Subsec. (d). Pub. L. 99-145, §683(a)(1)(C), substituted “Secretary of the military department concerned” for “Secretary of the Army or the Secretary of the Air Force, as the case may be”.

Subsec. (d)(1). Pub. L. 99-145, §683(a)(1)(A), inserted reference to Navy and Marine Corps.



Subsec. (d)(2). Pub. L. 99-145, §683(a)(1)(B), inserted reference to Navy.

1966—Subsec. (d). Pub. L. 89-718 substituted “Secretary concerned” for “Chief of Finance (in cases involving the Army) or by the Secretary of the Air Force” in provision for collection erroneously paid allotments.

## REGULATIONS

Section 651(b) of Pub. L. 104-201 provided that: “The Secretaries of the military departments shall prescribe regulations under subsection (d) of section 701 of title 37, United States Code, as added by subsection (a), not later than October 1, 1997.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 2882; title 14 section 686.

**[§ 702. Repealed. Pub. L. 99-145, title VI, § 683(b)(1), Nov. 8, 1985, 99 Stat. 665]**

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 484, authorized allotments by officers of Navy and Marine Corps for support of family or relatives, for personal savings, and for other purposes. See section 701 of this title.

**§ 703. Allotments: members of Coast Guard**

Members of the Coast Guard may, under regulations prescribed by the Secretary of Transportation, make allotments from their pay and allowances.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 90-623, §3(1), Oct. 22, 1968, 82 Stat. 1314.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
703 .....	14:464.	[None.]

The words “members of the Coast Guard” are substituted for the words “officers and enlisted men”, since together they compose the entire membership.

## AMENDMENTS

1968—Pub. L. 90-623 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

## EFFECTIVE DATE OF 1968 AMENDMENT

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

**§ 704. Allotments: officers of Public Health Service**

Commissioned officers of the Public Health Service who are on active duty may, under regulations prescribed by the President, make allotments from their pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
704 .....	42:210(b) (1st sentence).	July 1, 1944, ch. 373, §209(c) (1st sentence), 58 Stat. 686; redesignated as section 208, Feb. 28, 1948, ch. 83, §5(a), 62 Stat. 40; redesignated as subsection (b), Oct. 12, 1949, ch. 681, §521(b) (as applicable to section 208(b) (1st sentence) of the Act of July 1, 1944), 63 Stat. 834; restated Aug. 9, 1950, ch. 654, §1, 64 Stat. 426; Apr. 8, 1960, Pub. L. 86-415, §5(b) (1st sentence), 74 Stat. 34.

## DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Health, Education, and Welfare, see section 3 of Ex. Ord. No. 11140, Jan. 30, 1964 29 F.R. 1637, set out as a note under section 202 of Title 42, The Public Health and Welfare. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

**[§ 705. Repealed. Pub. L. 99-145, title VI, § 683(b)(1), Nov. 8, 1985, 99 Stat. 665]**

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485, related to assignments of pay due enlisted members of naval service. See section 701 of this title.

**§ 706. Allotments: commissioned officers of the National Oceanic and Atmospheric Administration**

Under regulations prescribed by the Secretary of Commerce, commissioned officers of the National Oceanic and Atmospheric Administration may make allotments or assignments of their pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485; Pub. L. 89-718, §49(a)(1), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 96-513, title V, §516(18)(A), (B), Dec. 12, 1980, 94 Stat. 2939.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
706 .....	33:862.	Mar. 4, 1907, ch. 2918, §1 (10th par. under “Coast and Geodetic Survey”); restated June 21, 1955, ch. 172, §1; restated Sept. 26, 1961, Pub. L. 87-304, 75 Stat. 665.

## AMENDMENTS

1980—Pub. L. 96-513 substituted “Allotments: commissioned officers of the National Oceanic and Atmospheric Administration” for “Commissioned officers of Environmental Science Services Administration” in section catchline and “National Oceanic and Atmospheric Administration” for “Environmental Science Services Administration” in text.

1966—Pub. L. 89-718 substituted “Environmental Science Services Administration” for “Coast and Geodetic Survey” in section catchline and text.

## EFFECTIVE DATE OF 1980 AMENDMENT

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

§ 707. Allotments: members of the National Guard

(a) The Secretary of the Army or the Secretary of the Air Force, as the case may be, may allow a member of the National Guard who is not on active duty to make allotments from his pay under sections 204 and 206 of this title for the payment of premiums under a group life insurance program sponsored by the military department of the State in which such member holds his National Guard membership or by the National Guard association of such State if the State or association concerned has agreed in writing to reimburse the United States for all costs incurred by the United States in providing for such allotments. The amount of such costs and procedures for reimbursements shall be determined by the Secretary of Defense and his determination shall be conclusive. All amounts of reimbursements for such costs received by the United States from a State or an association shall be credited to the appropriations or funds against which charges have been made for such costs.

(b) The United States is not liable for loss or damage suffered by a person as a result of an error made by an officer or employee of the United States in carrying out the allotment program under subsection (a).

(Added Pub. L. 93-289, §11(a), May 24, 1974, 88 Stat. 172; amended Pub. L. 96-513, title V, §516(19), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 97-295, §3(5), Oct. 12, 1982, 96 Stat. 1304; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

HISTORICAL AND REVISION NOTES 1982 ACT

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 1: 707(b) ..... 37:707 (note). May 24, 1974, Pub. L. 93-289, §11(b), 88 Stat. 173.

In subsection (b), the words "is not" are substituted for "shall not be" for consistency.

AMENDMENTS

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

1982—Pub. L. 97-295 designated existing provisions as subsec. (a) and added subsec. (b).

1980—Pub. L. 96-513 struck out "(a)" before "The Secretary".

EFFECTIVE DATE OF 1980 AMENDMENT

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

LIABILITY OF UNITED STATES FOR LOSSES OR DAMAGES

Section 11(b) of Pub. L. 93-289, which provided that the United States shall not be liable for any losses or damages suffered by any person as the result of any error made by any officer or employee of the United States in administering the allotment program authorized under subsec. (a) of this section, was repealed and reenacted as subsec. (b) of this section by Pub. L. 97-295, §§3(5), 6(b), Oct. 12, 1982, 96 Stat. 1304, 1314.

CHAPTER 15—PROHIBITIONS AND PENALTIES

Sec. [801. Repealed.]

Sec. 802. Forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs. 803. Commissioned officers of Army or Air Force: forfeiture of pay when dropped from rolls. [804, 805. Repealed.]

AMENDMENTS

1996—Pub. L. 104-106, div. A, title XI, §1122(c)(2), Feb. 10, 1996, 110 Stat. 463, struck out item 804 "Enlisted members of Army or Air Force: pay and allowances not to accrue during suspended sentence of dishonorable discharge".

1994—Pub. L. 103-355, title VI, §6001(a)(2), Oct. 13, 1994, 108 Stat. 3362, struck out item 801 "Restriction on payment to certain officers".

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

1985—Pub. L. 99-145, title VI, §683(b)(3), Nov. 8, 1985, 99 Stat. 666, struck out item 805 "Sale of pay by members of naval service to be discouraged by commanding officer".

§801. Repealed. Pub. L. 103-355, title VI, §6001(a)(1), Oct. 13, 1994, 108 Stat. 3362]

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485; Pub. L. 89-718, §§49(a)(1), 68, Nov. 2, 1966, 80 Stat. 1121, 1123; Pub. L. 96-513, title V, §516(20), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 101-194, title V, §505(a), Nov. 30, 1989, 103 Stat. 1756; Pub. L. 101-510, div. A, title XIV, §1484(c)(2), Nov. 5, 1990, 104 Stat. 1716, prohibited payment from any appropriation to officer, for period of three years after name of officer was placed on retired list of Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, Regular Coast Guard, National Oceanic and Atmospheric Administration, or Public Health Service, who was engaged for himself or others in selling, or contracting or negotiating to sell, supplies or war materials to agency of Department of Defense, Coast Guard, National Oceanic and Atmospheric Administration, or Public Health Service.

§ 802. Forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs

A member of the Army, Navy, Air Force, or Marine Corps, on active duty who is absent from his regular duties for a continuous period of more than one day because of disease that is directly caused by and immediately follows his intemperate use of alcoholic liquor or habit-forming drugs is not entitled to pay for the period of that absence. However, a member whose pay is forfeited for more than one month is entitled to \$5 for personal expenses for each full month that his pay is forfeited. Determinations of periods and causes of absence under this section shall be made as prescribed by the Secretary concerned, and are final.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 1: 802 ..... 10:3632, 10:6111, 10:8632. [None.] [None.] [None.]

The words "Navy . . . or Marine Corps" are substituted for the words "naval service", in section 6111 of title 10, to conform to the definition of that term in section 5001(a)(3) of title 10. The words "and conclusive" are omitted as surplusage.

**§ 803. Commissioned officers of Army or Air Force: forfeiture of pay when dropped from rolls**

A commissioned officer of the Army or the Air Force who is dropped from the rolls under section 1161(b) of title 10 for absence without authority for three months forfeits all pay due or to become due.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
803 .....	10:3633. 10:8633.	[None.] [None.]

**[§ 804. Repealed. Pub. L. 104-106, div. A, title XI, § 1122(c)(1), Feb. 10, 1996, 110 Stat. 463]**

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486, provided that pay and allowances do not accrue to enlisted member of Army or Air Force who is in confinement under sentence of dishonorable discharge, while execution of sentence to discharge is suspended.

**[§ 805. Repealed. Pub. L. 99-145, title VI, § 683(b)(1), Nov. 8, 1985, 99 Stat. 665]**

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486, required commanding officer to discourage the sale of pay by members of naval service. See section 701 of this title.

**CHAPTER 17—MISCELLANEOUS RIGHTS AND BENEFITS**

Sec.	
901.	Wartime pay of officer of armed force exercising command higher than his grade.
902.	Pay of crews of wrecked or lost naval vessels.
903.	Retired members recalled to active duty; former members.
[904.	Repealed.]
905.	Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances.
906.	Extension of enlistment: effect on pay and allowances.
907.	Enlisted members and warrant officers appointed as officers: pay and allowances stabilized.
908.	Employment of reserves and retired members by foreign governments.

AMENDMENTS

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

1982—Pub. L. 97-295, § 3(6)(B), Oct. 12, 1982, 96 Stat. 1304, added item 908.

1980—Pub. L. 96-513, title V, § 506(8), Dec. 12, 1980, 94 Stat. 2919, struck out item 904 "Officers of Navy or Marine Corps promoted under chapter 545 of title 10: effective date of beginning of pay and allowances" and substituted "Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances" for "Officers of Navy or Marine Corps not covered by section 904 of this title: effective date of beginning of pay and allowances" in item 905.

Pub. L. 96-343, § 6(a)(2), Sept. 8, 1980, 94 Stat. 1127, substituted "and warrant officers appointed as officers:" for "appointed as officers;" in item 907.

1970—Pub. L. 91-484, § 1(2), Oct. 21, 1970, 84 Stat. 1084, added item 907.

**§ 901. Wartime pay of officer of armed force exercising command higher than his grade**

In time of war, an officer of an armed force who is serving with troops operating against an enemy and who exercises, under assignment in orders issued by competent authority, a command above that pertaining to his grade, is entitled to the pay and allowances (not above that of pay grade O-7) appropriate to the command so exercised.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
901 .....	37:235a.	Apr. 26, 1898, ch. 191, § 7 (less last proviso), 30 Stat. 365.

Applicability of the source law to the Air Force is based on Transfer Order No. 25(zzz), of the Secretary of Defense, dated October 14, 1948. Its applicability, other than to the Army and the Air Force, is based upon an opinion of the Judge Advocate General of the Navy, JAG 135: DDC; dmt.; 4229, dated July 29, 1960. The words "(but not above that of pay grade O-7)" are substituted for section 235a (proviso) of existing title 37.

**§ 902. Pay of crews of wrecked or lost naval vessels**

(a) When the accounts of the disbursing officer of a naval vessel are lost as a result of the destruction of the vessel, his return for the last month may, unless there is official evidence to the contrary, be used in computing later credits to and settling accounts of persons, other than officers, carried on his accounts. If the return for the last month has not been made, the pay accounts may be settled on principles of equity and justice.

(b) When a naval vessel is lost or has not been heard from for so long that her loss may be presumed, the Secretary of the Navy may fix the date of loss of the vessel for the purpose of settling the accounts of persons aboard other than officers.

(c) When the crew of a naval vessel is separated from that vessel because of her wreck, loss, or destruction, the pay and emoluments of those officers and enlisted members that the Secretary considers (because of the sentence of a court-martial or the finding of a court of inquiry, or by other satisfactory evidence) to have done their utmost to save the vessel and, after the wreck, loss, or destruction, to have behaved themselves according to the discipline of the Navy, continue and shall be paid to them until their discharge or death, whichever is earlier.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486; Pub. L. 104-316, title I, § 118, Oct. 19, 1996, 110 Stat. 3836.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
902(a) .....	10:6144.	[None.]
902(b) .....	10:6145.	[None.]
902(c) .....	37:243.	R.S. 1574.

In subsections (a) and (c), the words "naval vessel" are substituted for the words "any vessel of the United

States”, in section 243 of existing title 37, and the words “vessel in the employ of the United States”, in section 6144 of title 10, for clarity and to conform to subsection (b).

In subsection (c), the word “continues” is substituted for the words “go on”. The words “whichever is earlier” are inserted for clarity. The words “or the findings of a” are inserted since a court of inquiry cannot impose a sentence.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-316 substituted “the Secretary of the Navy may” for “the General Accounting Office, under the direction of the Secretary of the Navy, may”.

**§ 903. Retired members recalled to active duty; former members**

A retired member or former member of a uniformed service, or a member of the Fleet Reserve or Fleet Marine Corps Reserve, who is serving on active duty is entitled to the pay and allowances to which he is entitled, under this title, for the grade, rank, or rating in which he is serving. In addition, while on active duty, he is entitled to the pay and allowances, while on leave of absence or while sick, of a member of a uniformed service of similar grade, rank, or rating who is entitled to basic pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 487.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
903 .....	37:314.	Oct. 12, 1949, ch. 681, §514, 63 Stat. 831.

The word “rating” is inserted for clarity. The words “is entitled to” are substituted for the words “shall . . . be entitled to receive and have the same . . . rights”. The last 41 words of section 314 of existing title 37 are omitted, since the sections mentioned therein were repealed by section 53(b) of the Act of August 10, 1956, ch. 1041 (70A Stat. 646). The subject of death benefits and entitlement thereto is now covered by chapter 75 of title 10.

**[§ 904. Repealed. Pub. L. 96-513, title IV, § 403(a), Dec. 12, 1980, 94 Stat. 2904]**

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 487; Pub. L. 90-130, §3(2), Nov. 8, 1967, 81 Stat. 383; Pub. L. 90-623, §3(8), Oct. 22, 1968, 82 Stat. 1315, set forth provisions relating to effective date of beginning of pay and allowances of officers of Navy or Marine Corps promoted under chapter 545 of Title 10, Armed Forces.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, but with authority to prescribe regulations under the amendment by section 403(a) of Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of Title 10, Armed Forces.

**§ 905. Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances**

(a) A reserve officer who is promoted under chapter 1405 of title 10 to a grade above lieutenant (junior grade) in the Naval Reserve or above first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the grade

to which promoted for duty performed from the date on which he becomes eligible for promotion to that grade.

(b) A reserve officer who is promoted under section 14308(b) of title 10 to the grade of lieutenant (junior grade) in the Naval Reserve or first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the higher grade for duty performed from the date given him as his date of rank.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 488; Pub. L. 95-377, §9, Sept. 19, 1978, 92 Stat. 721; Pub. L. 96-513, title IV, §403(b), Dec. 12, 1980, 94 Stat. 2904; Pub. L. 103-337, div. A, title XVI, §1676(b)(3), Oct. 5, 1994, 108 Stat. 3019.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
905(a) .....	10:6141.	[None.]
905(b) .....	10:5907.	[None.]
905(c) .....	10:5908(a) (last sentence).	[None.]
905(d) .....	10:5788(c).	[None.]
905(e) .....	10:5787b(c).	[None.]
905(f) .....	10:5505(c).	[None.]
905(g) .....	10:5597(h) (last sentence).	[None.]
	10:5597(i) (last 21 words).	[None.]
905(h) .....	10:5787(g) (last 21 words).	[None.]
	10:5787(h) (last sentence).	[None.]

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-337, §1676(b)(3)(A), substituted “chapter 1405” for “chapter 549”.

Subsec. (b). Pub. L. 103-337, §1676(b)(3)(B), substituted “section 14308(b)” for “section 5908”.

1980—Pub. L. 96-513 substituted “Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances” for “Officers of Navy or Marine Corps not covered by section 904 of this title: effective date of beginning of pay and allowances” in section catchline, and generally revised and restructured section, and as part of such restructuring struck out former subsec. (a), redesignated former subsecs. (b) and (c) as subsecs. (a) and (b), respectively, and, in subsec. (a) as so redesignated, struck out second sentence which related to establishment of an officer’s professional and moral qualifications, and struck out former subsecs. (d) to (h).

1978—Subsec. (h). Pub. L. 95-377 inserted reference to section 5787d.

EFFECTIVE DATE OF 1994 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENT

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

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

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

**§ 906. Extension of enlistment: effect on pay and allowances**

A member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, who extends his enlistment under section 509 of title 10 is entitled to the same pay and allowances as though he had reenlisted. For the purposes of determining entitlement to reenlistment bonus or to travel and transportation allowances upon discharge, all such extensions of an enlistment are considered one continuous extension.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 489; Pub. L. 90-235, §2(c), Jan. 2, 1968, 81 Stat. 757.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
906(a) .....	10:3263(b). 10:3263(b).	[None.] [None.]
906(b) .....	10:5539(b).	[None.]

In subsection (a), the words “who extends his enlistment” are substituted for the words “While serving under an enlistment extended”. The words “same pay and allowances as though he had reenlisted” are substituted for the last 31 words of section 3263(b) of title 10 and the last 31 words of section 8263(b) of title 10.

## AMENDMENTS

1968—Pub. L. 90-235 struck out provisions formerly set out as subsec. (a) which provided that a member of the Army or Air Force who had extended his enlistment was entitled to the same pay as though he had reenlisted, redesignated as entire section provisions formerly set out as subsec. (b) and substituted “Army, Navy, Air Force, Marine Corps, or Coast Guard” for “Regular Navy or the Regular Marine Corps” and “section 509 of title 10” for “section 5539 of title 10”.

**§ 907. Enlisted members and warrant officers appointed as officers: pay and allowances stabilized**

(a) An enlisted member who accepts an appointment as an officer shall, for service as an officer, be paid the greater of—

- (1) the pay and allowances to which he is entitled as an officer; or
- (2) the pay and allowances to which he would be entitled if he were in the last enlisted grade he held before his appointment as an officer.

(b) A warrant officer who accepts an appointment as a commissioned officer in a pay grade above W-4 shall, for service as such a commissioned officer, be paid the greater of—

- (1) the pay and allowances to which he is entitled as such a commissioned officer;
- (2) the pay and allowances to which he would be entitled if he were in the last warrant officer grade he held before his appointment as such a commissioned officer; or
- (3) in the case of an officer who was formerly an enlisted member, the pay and allowances to which he would be entitled if he were in the last enlisted grade he held before his appointment as an officer.

(c) For the purposes of this section—

- (1) the pay and allowances of a grade formerly held by an officer include—

- (A) subject to subsection (d), special and incentive pays under chapter 5 of this title; and

(B) subject to subsection (e), allowances under chapter 7 of this title; and

(2) the rates of pay and allowances of a grade which an officer formerly held are those to which the officer would have been entitled had he remained in that grade and continued to receive the increases in pay and allowances authorized for that grade, as otherwise provided in this title.

(d) In determining the amount of the pay and allowances of a grade formerly held by an officer, incentive pay for hazardous duty under section 301 of this title, special pay for diving duty under section 304 of this title, for hardship duty under section 305 of this title, and for sea duty under section 305a of this title, and proficiency pay under section 307 of this title may be considered only so long as the officer continues to perform the duty creating the entitlement to or eligibility for that pay and would otherwise be eligible to receive that pay in his former grade.

(e) The clothing allowance under section 418 of this title may not be considered in determining the amount of the pay and allowances of a grade formerly held by an officer if the officer is entitled to a uniform allowance under section 415 of this title.

(Added Pub. L. 91-484, §1(1), Oct. 21, 1970, 84 Stat. 1083; amended Pub. L. 96-343, §6(a)(1), Sept. 8, 1980, 94 Stat. 1126; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 105-85, div. A, title VI, §619(d), Nov. 18, 1997, 111 Stat. 1790; Pub. L. 105-261, div. A, title VI, §617(b), Oct. 17, 1998, 112 Stat. 2041.)

## AMENDMENTS

1998—Subsec. (d). Pub. L. 105-261 substituted “hardship duty” for “duty at a hardship duty location”.

1997—Subsec. (d). Pub. L. 105-85 substituted “duty at a hardship duty location” for “duty at certain places”.

1991—Subsec. (c)(1). Pub. L. 102-25 struck out “of this section” after “subsection (d)” in subpar. (A) and after “subsection (e)” in subpar. (B).

1980—Pub. L. 96-343 substituted “and warrant officers appointed as officers:” for “appointed as officers;” in section catchline, and, in generally revising section, struck out provision for temporary appointment of enlisted members as officers, provided for pay and allowances for warrant officers who accept appointment as commissioned officers, and specified what pay and allowances include and what rates and allowances of a grade which an officer formerly held are for purposes of this section.

## EFFECTIVE DATE OF 1980 AMENDMENT

Section 6(c) of Pub. L. 96-343 provided that: “The amendments made by this section [amending this section and section 203 of this title] shall be effective with respect to periods for which pay and allowances are payable which begin after August 31, 1980.”

**§ 908. Employment of reserves and retired members by foreign governments**

(a) CONGRESSIONAL CONSENT.—Subject to subsection (b), Congress consents to the following persons accepting civil employment (and compensation for that employment) for which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution, related to acceptance of emoluments, offices, or titles from a foreign government:

- (1) Retired members of the uniformed services.
- (2) Members of a reserve component of the armed forces.
- (3) Members of the Commissioned Reserve Corps of the Public Health Service.

(b) APPROVAL REQUIRED.—A person described in subsection (a) may accept employment or compensation described in that subsection only if the Secretary concerned and the Secretary of State approve the employment.

(c) MILITARY SERVICE IN FOREIGN ARMED FORCES.—For a provision of law providing the consent of Congress to service in the military forces of certain foreign nations, see section 1060 of title 10.

(Added Pub. L. 97-295, §3(6)(A), Oct. 12, 1982, 96 Stat. 1304; amended Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103-160, div. A, title XIV, §1433(c), Nov. 30, 1993, 107 Stat. 1834; Pub. L. 103-337, div. A, title X, §1070(d)(6), Oct. 5, 1994, 108 Stat. 2858.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
908 .....	37:801 (note).	Aug. 17, 1977, Pub. L. 95-105, §509(a)-(c), 91 Stat. 859.

In subsection (a), the words “for which” are substituted for “with respect to which” for clarity.

The text of section 509(c) of the Act of August 17, 1977, is omitted as unnecessary because of the definitions in 37:101.

AMENDMENTS

- 1994—Subsec. (c). Pub. L. 103-337 substituted “1060” for “1058”.
- 1993—Pub. L. 103-160 inserted headings in subsecs. (a) and (b) and added subsec. (c).
- 1991—Subsec. (a). Pub. L. 102-25 struck out “of this section” after “subsection (b)”.
- Subsec. (b). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1060; title 22 section 3622.

CHAPTER 19—ADMINISTRATION

Sec.	
1001.	Regulations relating to pay and allowances.
1002.	Additional training or duty without pay: Reserves and members of National Guard.
1003.	Assimilation of pay and allowances.
1004.	Computation of pay and allowances for month or part of month.
1005.	Army and Air Force: prompt payments required.
1006.	Advance payments.
1007.	Deductions from pay.
1008.	Presidential recommendations concerning adjustments and changes in pay and allowances.
1009.	Adjustments of monthly basic pay.
1010.	Commissioned officers: promotions; effective date for pay and allowances. <sup>1</sup>
1011.	Mess operations: reimbursement of expenses. <sup>1</sup>
1012.	Disbursement and accounting: pay of enlisted members of the National Guard.

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

- 1013. Payment of compensation for victims of terrorism.
- 1014. Payment date for pay and allowances.

AMENDMENTS

- 1997—Pub. L. 105-85, div. A, title VI, §604(a)(2), Nov. 18, 1997, 111 Stat. 1784, substituted “monthly basic pay” for “compensation” in item 1009.
- 1990—Pub. L. 101-510, div. A, title XIV, §1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.
- 1987—Pub. L. 100-26, §8(b)(2), Apr. 21, 1987, 101 Stat. 285, redesignated item 1013 “Payment date for pay and allowances” as 1014.
- 1986—Pub. L. 99-500, §101(c) [title IX, §9103(2)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-118, and Pub. L. 99-591, §101(c) [title IX, §9103(2)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-118, added item 1013, relating to payment date for pay and allowances.
- Pub. L. 99-399, title VIII, §806(e)(2), Aug. 27, 1986, 100 Stat. 889, added item 1013, relating to payment of compensation for victims of terrorism.
- 1985—Pub. L. 99-145, title XIII, §1303(b)(13)(C), Nov. 8, 1985, 99 Stat. 741, inserted “: pay of enlisted members of the National Guard” in item 1012.
- 1982—Pub. L. 97-258, §2(1)(2)(A), Sept. 13, 1982, 96 Stat. 1061, added item 1012.
- 1980—Pub. L. 96-513, title V, §§506(9), 516(21), Dec. 12, 1980, 94 Stat. 2919, 2939, added items 1010 and 1011 and substituted “Force:” for “Force;” in item 1005.
- 1974—Pub. L. 93-419, §4, Sept. 19, 1974, 88 Stat. 1152, added item 1009.
- 1965—Pub. L. 89-132, §2(b), Aug. 21, 1965, 79 Stat. 547, added item 1008.

§ 1001. Regulations relating to pay and allowances

(a) A Secretary of a military department may not prescribe a regulation under this title or any other law, relating to the pay and allowances of members of an armed force under that department, unless it has been approved under procedures prescribed by the Secretary of Defense.

(b) Regulations of the Secretary concerned relating to pay and allowances matters, similar to those covered by subsection (a), for members of the Coast Guard, the National Oceanic and Atmospheric Administration, and the Public Health Service, shall, as far as practicable, conform to regulations approved under that subsection.

(c) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, may obtain from the Comptroller General an advisory opinion with respect to a proposed regulation especially affecting a department under that Secretary’s jurisdiction.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 489; Pub. L. 89-718, §§49(a)(1), 69, Nov. 2, 1966, 80 Stat. 1121, 1123; Pub. L. 90-623, §3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96-513, title V, §516(22), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1001(a) .....	37:324 (1st sentence).	Oct. 12, 1949, ch. 681, §534; added Sept. 2, 1957.
1001(b) .....	37:324 (2d sentence).	Pub. L. 85-272, §4, 71 Stat. 597.
1001(c) .....	37:324 (less 1st and 2d sentences).	

In subsection (a), the words “within the Department of Defense” are omitted as surplusage. The words

“members of the armed forces” are substituted for the words “military personnel”.

In subsection (b), the words “conform to” are substituted for the words “agree with”.

In subsection (c), the words “or departments” are omitted, since, under section 1 of title 1, words importing the singular include and apply to several persons, parties, or things.

AMENDMENTS

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

1980—Subsec. (b). Pub. L. 96-513, §516(22)(A), substituted “National Oceanic and Atmospheric Administration” for “Environmental Science Services Administration”.

Subsec. (c). Pub. L. 96-513, §516(22)(B), substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare”.

1968—Subsec. (c). Pub. L. 90-623 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

1966—Subsec. (b). Pub. L. 89-718 substituted “Environmental Science Services Administration” for “Coast and Geodetic Survey”, and inserted “and allowances” between “pay” and “matters”.

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

§ 1002. Additional training or duty without pay: Reserves and members of National Guard

(a) A member of the National Guard, or of a reserve component of a uniformed service, may, with his consent, be given additional training or other duty as provided by law, without pay, as may be authorized by the Secretary concerned.

(b) A member who performs training or other duty without pay under subsection (a) may, in the discretion of the Secretary concerned, be authorized the travel and transportation allowances prescribed by section 404(a)-(d), and (f), of this title for travel performed to and from that training or duty, and, during the performance of that training or duty, be furnished with subsistence and quarters in kind or commutation thereof at a rate to be fixed by the Secretary concerned.

(c) This section does not authorize compensation for work or study performed by a member of a reserve component in connection with correspondence courses of an armed force.

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

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 489; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1002(a) .....	37:301(b) (1st sentence, less last 75 words).	Oct. 12, 1949, ch. 681, § 501(b), (e) (as applicable to duty without pay), 63 Stat. 826, 827;
1002(b) .....	37:301(b) (last 75 words of 1st sentence).	Aug. 10, 1956, ch. 1041, § 20(f), 70A Stat. 629;
1002(c) .....	37:301(b) (less 1st sentence).	June 30, 1960, Pub. L. 86-559, § 8, 74 Stat. 282;
1002(d) .....	37:301(e) (as applicable to duty without pay).	Aug. 25, 1961, Pub. L. 87-164, 75 Stat. 401.

In subsection (a), the words “A member of the National Guard, or of a reserve component” are substituted for the enumeration of those reserve categories to conform to other sections of this revised title.

In subsection (b), the words “section 404(a)-(d), and (f), of this title” are substituted for the words “section 253(a) of this title” to reflect the section of this revised title which restates that section.

Subsection (d) is substituted for section 301(e) of existing title 37.

AMENDMENTS

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1012 of this title.

§ 1003. Assimilation of pay and allowances

Chapters 3 and 5 and sections 402-407, 409-411, and 414 of this title apply equally to persons who are not serving as members of a uniformed service but whose pay or allowances, or both, are assimilated under law or a regulation prescribed under law, to the pay or allowances, or both, of commissioned officers, warrant officers, or enlisted members of any grade, rank, or rating in any uniformed service.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 490.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1003 .....	37:309.	Oct. 12, 1949, ch. 681, §509; restated May 19, 1952, ch. 310, § 3, 66 Stat. 80.

§ 1004. Computation of pay and allowances for month or part of month

A member of a uniformed service who is entitled to pay and allowances under this title for a continuous period of less than one month is entitled to his pay and allowances for each day of that period at the rate of 1/30 of the monthly amount of his pay and allowances. The thirty-first day of a calendar month may not be excluded from a computation under this section.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 490.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1004 .....	37:310.	Oct. 12, 1949, ch. 681, §510, 63 Stat. 828.

**§ 1005. Army and Air Force: prompt payments required**

Members of the Army and of the Air Force shall be paid at such times that arrears will at no time be more than two months, unless circumstances make further arrears unavoidable.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 490.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1005 .....	37:310b.	R.S. 1189.

The applicability of this section to members of the Air Force is based on Department of Defense Transfer Order No. 25, dated October 14, 1948.

**§ 1006. Advance payments**

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service may be paid in advance—

(1) not more than three months' pay of such member upon such member's change of permanent station; or

(2) the amount of an allotment made from such member's pay to a dependent if such member is assigned or scheduled for assignment to sea duty or other duty with a unit or command deployed or to be deployed outside the United States and the allotment is made by such member not more than sixty days before the scheduled date of the assignment of such member to such duty.

(b) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who is on duty at a distant station where the pay and emoluments to which he is entitled cannot be disbursed regularly, may be paid in advance.

(c) Under regulations prescribed by the Secretary concerned, an advance of pay to a member of a uniformed service who is on duty outside the United States, or other place designated by the Secretary of Defense, of not more than two months' basic pay may be made to a member if the member or the dependents of the member are ordered evacuated by competent authority. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b). An advance may be made on the basis of the evacuation of a member's dependents only if all dependents of members of the uniformed services are ordered evacuated from the place where the member's dependents are located. In the case of a member with dependents, the payment may be made directly to dependents previously designated by the member. The Secretary concerned or his designee may waive any right of recovery of not more than one month's basic pay advanced under this subsection if he finds that recovery of the advance would be against equity and good conscience or against the public interest.

(d) If a person to whom an advance of pay is made under subsection (a), (b), or (c) dies or is separated from his uniformed service, before liquidation of that advance, the amount re main-

ing unliquidated at the time of his death or separation shall be credited to the account of the disbursing officer concerned. However, the unliquidated amount remains a debt of that person or his estate to the United States.

(e)(1) As far as practicable, regulations for the administration of subsections (a)–(d) shall be uniform for all of the uniformed services.

(2)(A) Notwithstanding any other provision of law, an obligation for an advance of pay made pursuant to this section shall be recorded as an obligation only in the fiscal year in which the entitlement of the member to the pay accrues.

(B) Current appropriations available for advance payments under this section may be transferred to the prior fiscal year appropriation available for the same purpose in the amount of any unliquidated advance payments that remain at the end of such prior fiscal year. Such unliquidated advance payments shall then be credited to the current appropriation.

(f) Under regulations prescribed by the Secretary of Transportation, an advance of pay of not more than three months' pay may be made to an officer of the Coast Guard who is ordered to sea duty or to or from shore duty beyond the seas. In addition, the Commandant of the Coast Guard may direct such advances as he considers necessary and proper to members of the Coast Guard stationed at distant stations where the pay and emoluments to which they are entitled cannot be paid regularly.

(g) Under regulations prescribed by the Secretary concerned, the dislocation allowance authorized by section 407 of this title for a member of a uniformed service whose dependents are covered by section 405a(a) of this title may be paid in advance of the evacuation of the dependents and to the dependents designated by the member.

(h) Notwithstanding subsections (a) and (b) of section 3324 of title 31, the Secretary concerned may, when the last day of the pay period falls on a Saturday, Sunday, or legal holiday, authorize the payment of pay and allowances to members of uniformed service under his jurisdiction on the preceding workday but not more than three days before the last day of that pay period. If a member dies after he has received an advance payment under this subsection, but before the last day of the pay period for which the payment is made, no part of the amount so advance is recoverable by the United States.

(i) Under regulations prescribed by the Secretary concerned, not more than one month's pay may be paid in advance to a member of the Armed Forces Health Professions Scholarship program upon reporting for a period of active duty required by section 2121(c) of title 10.

(j) Under regulations prescribed by the Secretary concerned, not more than one month's pay may be paid in advance to a member of the Senior Reserve Officers' Training Corps who is ordered to field training or a practice required under section 2109 of title 10.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 490; Pub. L. 89-26, §1(6), May 22, 1965, 79 Stat. 117; Pub. L. 89-193, Sept. 21, 1965, 79 Stat. 823; Pub. L. 89-718, §70, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 90-623,



§ 3(1), (9), Oct. 22, 1968, 82 Stat. 1314, 1315; Pub. L. 96-76, title III, § 313(b), Sept. 29, 1979, 93 Stat. 586; Pub. L. 96-215, § 3, Mar. 25, 1980, 94 Stat. 123; Pub. L. 96-343, § 8, Sept. 8, 1980, 94 Stat. 1128; Pub. L. 96-513, title V, § 516(23), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 97-60, title I, § 131(b), Oct. 14, 1981, 95 Stat. 1005; Pub. L. 97-258, § 3(j), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 99-145, title XIII, § 1303(b)(12), Nov. 8, 1985, 99 Stat. 741; Pub. L. 99-661, div. A, title VI, § 602(a), Nov. 14, 1986, 100 Stat. 3874; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title VI, § 602(a), Oct. 23, 1992, 106 Stat. 2420; Pub. L. 103-160, div. A, title VI, § 605(a), Nov. 30, 1993, 107 Stat. 1679; Pub. L. 105-261, div. A, title VI, § 652, Oct. 17, 1998, 112 Stat. 2051.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1006(a) .....	37:310c(a).	Oct. 5, 1949, ch. 600, § 1, 63 Stat. 703.
1006(b) .....	37:319c(b).	Oct. 5, 1949, ch. 600, § 2; added Aug. 30, 1961, Pub. L. 87-188, § 1, 75 Stat. 416.
1006(c) .....	37:310c-1.	Oct. 5, 1949, ch. 600, § 2, 63 Stat. 704; redesignated as section 3, Aug. 30, 1961, Pub. L. 87-188, § 2, 75 Stat. 416.
1006(d) .....	37:310d.	
1006(e) .....	37:310c (less (a) and (b)).	
1006(f) .....	14:465.	[None.]

In subsections (a) and (b), the words “a member of an armed force” are substituted for the words “commissioned and warrant officers, and enlisted men of the armed services.” The words “Secretary concerned” are substituted for the words “heads of the departments concerned” to conform to the definition in section 101(5) of this revised title.

In subsection (b), the words “may be paid in advance” are substituted for the words “may have their pay and emoluments advanced”.

In subsection (c), the words “Secretary concerned” are substituted for the words “heads of the departments concerned” to conform to the definition in section 101(5) of this revised title. The words “member of an armed force” are substituted for the words “members of the armed services”. The words “who are” are substituted for the words “in the event such dependents are”. The words “under subsection (a) or (b) of this section” are substituted for the words “in section 310c of this title” to reflect the section of this revised title which restates that section. The words “dependents of members of the armed forces” are substituted for the words “military dependents.” The words “at a place” are omitted as surplusage.

In subsection (d), the words “If a” are substituted for the words “In the event the”. The words “credited to the account” are substituted for the words “passed to credit in the account”.

## AMENDMENTS

1998—Subsec. (e). Pub. L. 105-261 designated existing provisions as par. (1) and added par. (2).

1993—Subsec. (c). Pub. L. 103-160 substituted “the Secretary of Defense” for “the President” in first sentence.

1992—Subsec. (c). Pub. L. 102-484 inserted first four sentences and struck out former first and second sentences which read as follows: “Under regulations prescribed by the Secretary concerned, an advance of pay to a member of a uniformed service who is on duty outside the United States, or other place designated by the President, of not more than two months’ basic pay may be made directly to his previously designated dependents who are ordered evacuated by competent author-

ity. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b), and may be made only if all dependents of members of the uniformed services are ordered evacuated from the place where the member’s dependents are located.”

1991—Subsec. (c). Pub. L. 102-25 struck out “of this section” after “subsection (a) or (b)”.

Subsec. (d). Pub. L. 102-25 struck out “of this section” after “subsection (a), (b), or (c)”.

Subsec. (e). Pub. L. 102-25 struck out “of this section” after “subsections (a)–(d)”.

1986—Subsec. (j). Pub. L. 99-661 added subsec. (j).

1985—Subsec. (h). Pub. L. 99-145 substituted “subsections (a) and (b) of section 3324” for “section 3324(a) and (b)”.

1982—Subsec. (h). Pub. L. 97-258 substituted “section 3324(a) and (b) of title 31” for “section 3648 of the Revised Statutes (31 U.S.C. 529)” after “Notwithstanding”.

1981—Subsec. (i). Pub. L. 97-60 added subsec. (i).

1980—Subsec. (a). Pub. L. 96-343 inserted provision authorizing an advance payment of the amount of an allotment made from the pay of a member of the uniformed services to a dependent if the member is scheduled for duty with a unit deployed outside the United States and the allotment is made not more than 60 days before the scheduled date of the assignment.

Pub. L. 96-215, § 3(1), substituted “a uniformed service” for “an armed force or of the Public Health Service”.

Subsec. (b). Pub. L. 96-215, § 3(1), substituted “a uniformed service” for “an armed force or of the Public Health Service”.

Subsec. (c). Pub. L. 96-215, § 3(1), (2), substituted “a uniformed service” for “an armed force or of the Public Health Service” and “members of the uniformed services” for “members of the armed forces or of the Public Health Service”.

Subsec. (d). Pub. L. 96-215, § 3(3), substituted “from his uniformed service” for “from his armed force or from the Public Health Service”.

Subsec. (e). Pub. L. 96-215, § 3(4), substituted “uniformed services” for “armed forces and the Public Health Service”.

Subsec. (h). Pub. L. 96-513 substituted “3648 of the Revised Statutes (31 U.S.C. 529)” for “529 of title 31”.

Pub. L. 96-215, § 3(5), substituted “a uniformed service” for “an armed force or of the Public Health Service”.

1979—Subsecs. (a) to (d) and (h). Pub. L. 96-76 inserted reference to the Public Health Service.

1968—Subsec. (a). Pub. L. 90-623, § 3(9), substituted “change of permanent station” for “permanent change of station”.

Subsec. (f). Pub. L. 90-623, § 3(1), substituted “Secretary of Transportation” for “Secretary of the Treasury”.

1966—Subsec. (h). Pub. L. 89-718 redesignated as subsec. (h) the subsection relating to advance payment of pay and allowances when the last day of the pay period falls on a Saturday, Sunday, or legal holiday, formerly designated as subsec. (g).

1965—Subsec. (c). Pub. L. 89-26, § 1(6)(A), empowered the Secretary concerned or his designee to waive any right of recovery of not more than one month’s basic pay advanced if he finds that recovery of the advance would be against equity and good conscience or against the public interest.

Subsec. (g). Pub. L. 89-193 added subsec. (g) relating to the payment of pay and allowances when the last day of the pay period falls on a Saturday, Sunday, or legal holiday.

Pub. L. 89-26, § 1(6)(B), added subsec. (g) relating to advance payment of the dislocation allowance.

## EFFECTIVE DATE OF 1992 AMENDMENT

Section 602(b) of Pub. L. 102-484 provided that: “The amendment made by subsection (a) [amending this sec-

tion] shall apply with respect to evacuations on or after June 1, 1991.”

EFFECTIVE DATE OF 1986 AMENDMENT

Section 602(b) of Pub. L. 99-661, as amended by Pub. L. 100-26, §3(2), Apr. 21, 1987, 101 Stat. 273, provided that: “Subsection (j) of section 1006 of title 37, United States Code, as added by subsection (a), shall apply with respect to pay payable for months beginning after the date of the enactment of this Act [Nov. 14, 1986].”

EFFECTIVE DATE OF 1980 AMENDMENT

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

EFFECTIVE DATE OF 1979 AMENDMENT

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

EFFECTIVE DATE OF 1968 AMENDMENT

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

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-26 effective Feb. 1, 1965, see section 2 of Pub. L. 89-26, as amended, set out as an Effective Date note under section 405a of this title.

FISCAL YEAR OF RECORDATION OF OBLIGATIONS

Pub. L. 94-212, title VII, §744, Feb. 9, 1976, 90 Stat. 175, provided that: “Obligations hereafter incurred for advance payments of pay and allowances pursuant to section 1006 of title 37, United States Code, shall be recorded as obligations only in the fiscal year in which such payments are earned.”

**§ 1007. Deductions from pay**

(a) The pay of an officer of an armed force may be withheld, under section 5512 of title 5, only for an indebtedness to the United States admitted by the officer or shown by the judgment of a court, or upon a special order issued in the discretion of the Secretary of Defense (or the Secretary of Transportation, in the case of an officer of the Coast Guard when the Coast Guard is not operating as a service in the Navy), or upon the denial of relief of an officer pursuant to section 3527 of title 31.

(b) An amount due to the United States from an enlisted member of the Army or the Air Force for articles sold to him on credit under section 4621(a)(1) or 9621(a)(1) of title 10, as the case may be, shall be deducted from the next pay due him after the sale is reported. An amount due the United States from an enlisted member of the Army or the Air Force for tobacco sold to him by the United States under section 4623 or 9623 of title 10 shall be deducted from his pay in the manner provided for the settlement of clothing accounts.

(c) Under regulations prescribed by the Secretary concerned, an amount that a member of the uniformed services is administratively determined to owe the United States or any of its instrumentalities may be deducted from his pay in monthly installments. However, after the deduction of pay forfeited by the sentence of a court-martial, if any, or otherwise authorized by

law to be withheld, the deductions authorized by this section may not reduce the pay actually received for any month to less than one-third of his pay for that month.

(d) Subject to subsection (c), an amount due the United States from an enlisted member of the Army or the Air Force may be deducted from his pay on final statement, or from his savings on his clothing allowance.

(e) The amount of any damage, or cost of repairs, to arms or equipment caused by the abuse or negligence of a member of the Army or the Air Force, as the case may be, who had the care of, or was using, the property when it was damaged, shall be deducted from his pay.

(f) If, upon final settlement of the accounts of an officer of the Army or the Air Force charged with the issue of an article of military supply, there is a deficiency of that article, or if an article of military supply with whose issue an officer is charged is damaged, the value of the lost article or the amount of the damage shall be charged against the officer and deducted from his monthly pay, unless he shows to the satisfaction of the Secretary of the Army or the Secretary of the Air Force, as the case may be, by one or more affidavits setting forth the circumstances, that he was not at fault.

(g) An amount due the United States from an officer of the Army or the Air Force for rations bought on credit, and for articles bought on credit under section 4621(a)(1) or 9621(a)(1) of title 10, shall be deducted from the next pay due that officer after the sale is reported.

(h)(1) Upon request by a service relief society and subject to paragraph (2), an amount owed by a member of the uniformed services to the relief society may be deducted from the pay on final statement of such member and paid to that relief society.

(2) An amount may not be deducted under paragraph (1) from the pay of a member unless the Secretary concerned makes a determination of the amount owed in accordance with the regulations prescribed under subsection (c). Any amount determined to be owed to a service relief society under this paragraph shall be considered an amount that the member is administratively determined to owe the United States under subsection (c) and shall be collectible in accordance with such subsection.

(3) The Secretaries concerned shall prescribe regulations to carry out this subsection.

(4) In this subsection, the term “service relief society” means the Army Emergency Relief, the Air Force Aid Society, the Navy Relief Society, or the Coast Guard Mutual Assistance.

(i)(1) There shall be deducted each month from the pay of each enlisted member, warrant officer, and limited duty officer of the armed forces on active duty an amount (determined under paragraph (3)) not to exceed \$1.00.

(2) Amounts deducted under paragraph (1) shall be deposited in the Armed Forces Retirement Home Trust Fund.

(3) The Secretary of Defense, after consultation with the Armed Forces Retirement Home Board, shall determine from time to time the amount to be deducted under paragraph (1) from the pay of enlisted members, warrant officers,

and limited duty officers on the basis of the financial needs of the Armed Forces Retirement Home. The amount to be deducted may be fixed at different amounts on the basis of grade or length of service, or both.

(4) In this subsection, the term “armed forces” does not include the Coast Guard when it is not operating as a service in the Navy.

(5) This subsection does not apply to an enlisted member, warrant officer, or limited duty officer of a reserve component.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 491; Pub. L. 89-718, §§ 71, 72, Nov. 2, 1966, 80 Stat. 1124; Pub. L. 90-83, § 5(3), Sept. 11, 1967, 81 Stat. 221; Pub. L. 98-525, title XIII, § 1305, Oct. 19, 1984, 98 Stat. 2613; Pub. L. 99-145, title VI, § 684, Nov. 8, 1985, 99 Stat. 666; Pub. L. 100-180, div. A, title VI, § 633(a), Dec. 4, 1987, 101 Stat. 1105; Pub. L. 101-189, div. A, title III, § 343(a), Nov. 29, 1989, 103 Stat. 1420; Pub. L. 101-510, div. A, title XV, § 1533(b), Nov. 5, 1990, 104 Stat. 1735; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title X, § 1054(a)(7), Oct. 23, 1992, 106 Stat. 2502; Pub. L. 103-337, div. A, title III, § 371(a), Oct. 5, 1994, 108 Stat. 2735; Pub. L. 104-106, div. A, title IX, § 913(c)(2), Feb. 10, 1996, 110 Stat. 411; Pub. L. 104-201, div. A, title X, § 1009(c)(1), Sept. 23, 1996, 110 Stat. 2635.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1007(a) .....	10:2772. 14:461(b).	[None.] [None.]
1007(b) .....	10:4837(a).	[None.]
1007(c) .....	10:9837(a).	[None.]
1007(d) .....	10:4837(b).	[None.]
1007(e) .....	10:9837(b).	[None.]
1007(f) .....	10:4837(c).	[None.]
1007(g) .....	10:9837(c).	[None.]
	10:4837(e).	[None.]
	10:9837(e).	[None.]
	10:4837(f).	[None.]
	10:9837(f).	[None.]
	10:4837(g).	[None.]
	10:9837(g).	[None.]

#### REFERENCES IN TEXT

Section 4623 of title 10, referred to in subsec. (b), was repealed by Pub. L. 91-482, § 1(a), Oct. 21, 1970, 84 Stat. 1082.

#### PRIOR PROVISIONS

Provisions similar to those in subsec. (i) of this section were contained in section 44c of Title 24, Hospitals and Asylums, prior to repeal by Pub. L. 101-189, § 347(4).

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-201 inserted “(or the Secretary of Transportation, in the case of an officer of the Coast Guard when the Coast Guard is not operating as a service in the Navy)” after “Secretary of Defense”.

Pub. L. 104-106 substituted “Secretary of Defense, or upon the denial of relief of an officer pursuant to section 3527 of title 31” for “Secretary concerned”.

1994—Subsec. (i)(1). Pub. L. 103-337 substituted “\$1.00” for “50 cents”.

1992—Subsec. (i)(3). Pub. L. 102-484 substituted “, warrant officers, and limited duty officers” for “and warrant officers”.

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

1990—Subsec. (i)(1). Pub. L. 101-510, § 1533(b)(1), substituted “, warrant officer, and limited duty officer” for “and warrant officer”.

Subsec. (i)(2). Pub. L. 101-510, § 1533(b)(2), added par. (2) and struck out former par. (2) which read as follows: “Amounts deducted under paragraph (1) shall be—

“(A) deposited in the Soldiers’ Home, permanent fund, in the case of deductions from the pay of enlisted members and warrant officers in the Army and Air Force; and

“(B) credited to the funds available for the operation of the Naval Home, in the case of deductions from the pay of enlisted members and warrant officers in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy).”

Subsec. (i)(2)(B). Pub. L. 101-510, § 1533(b)(1), which directed amendment of subpar. (B) by substituting “, warrant officer, and limited duty officer” for “and warrant officer”, could not be executed because the words “and warrant officer” did not appear.

Subsec. (i)(3). Pub. L. 101-510, § 1533(b)(3), substituted “Armed Forces Retirement Home Board” for “Governor of the Naval Home and the board of commissioners for the United States Soldiers’ and Airmen’s Home” and “of the Armed Forces Retirement Home” for “of the homes”.

Pub. L. 101-510, § 1533(b)(1), which directed amendment of par. (3) by substituting “, warrant officer, and limited duty officer” for “and warrant officer”, could not be executed because the words “and warrant officer” did not appear.

Subsec. (i)(5). Pub. L. 101-510, § 1533(b)(4), substituted “, warrant officer, or limited duty officer” for “or warrant officer”.

1989—Subsec. (i). Pub. L. 101-189 added subsec. (i).

1987—Subsec. (h). Pub. L. 100-180 added subsec. (h).

1985—Subsec. (c). Pub. L. 99-145 substituted “uniformed services” for “armed forces”.

1984—Subsec. (c). Pub. L. 98-525 substituted “a member of the armed forces” for “an enlisted member of the Army or the Air Force”.

1967—Subsec. (b). Pub. L. 90-83 struck out requirement that, in case of a member of the Army, the report be made to Chief of Finance.

1966—Subsec. (a). Pub. L. 89-718, § 71, substituted “section 5512 of title 5” for “section 82 of title 5”.

Subsec. (c). Pub. L. 89-718, § 72, substituted “pay” for “basic pay” as the amount which cannot be reduced below one-third through deductions from enlisted men of the Army or Air Force who have been administratively determined to owe the United States, payable by deductions in monthly installments.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Section 371(d)(1) of Pub. L. 103-337 provided that: “(1) The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1995, and apply to years that begin on or after that date.”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-510 effective one year after Nov. 5, 1990, see section 1541 of Pub. L. 101-510, set out as an Effective Date note under section 401 of Title 24, Hospitals and Asylums.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 343(b) of Pub. L. 101-189 provided that:

“(1) Except as provided in paragraph (2), subsection (i) of section 1007 of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month beginning after the date of the enactment of this Act [Nov. 29, 1989].

“(2) With respect to deductions from the pay of an enlisted member or warrant officer in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy), such subsection shall take effect on October 1, 1990.”

#### EFFECTIVE DATE OF 1987 AMENDMENT

Section 633(b) of Pub. L. 100-180 provided that: “Subsection (h) of section 1007 of title 37, United States Code (as added by subsection (a)), shall apply with respect to debts incurred by members of the uniformed services after the date of the enactment of this Act [Dec. 4, 1987].”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5514; title 10 section 1055; title 24 section 419.

**§ 1008. Presidential recommendations concerning adjustments and changes in pay and allowances**

(a) The President shall direct an annual review of the adequacy of the pays and allowances authorized by this title for members of the uniformed services.

(b) Whenever the President considers it appropriate, but in no event later than January 1, 1967, and not less than once each four years thereafter, he shall direct a complete review of the principles and concepts of the compensation system for members of the uniformed services. Upon completion of such review he shall submit a detailed report to Congress summarizing the results of such review together with any recommendations he may have proposing changes in the statutory salary system and other elements of the compensation structure provided members of the uniformed services.

(Added Pub. L. 89-132, §2(a), Aug. 21, 1965, 79 Stat. 546; amended Pub. L. 104-106, div. A, title VI, §642(b), Feb. 10, 1996, 110 Stat. 368.)

## AMENDMENTS

1996—Subsec. (a). Pub. L. 104-106 struck out at end “Upon completion of this review, but not later than March 31 of each year, the President shall submit to Congress a detailed report summarizing the results of such annual review together with any recommendations for adjustments in the rates of pay and allowances authorized by this title.”

## EFFECTIVE DATE

Section effective Sept. 1, 1965, see section 10 of Pub. L. 89-132, set out as an Effective Date of 1965 Amendment note under section 203 of this title.

## DELEGATION OF REPORTING FUNCTION

Memorandum of the President of the United States, June 9, 1989, 54 F.R. 25561, provided:

Memorandum for the Secretary of Defense  
By virtue of the authority vested in me by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I authorize you to submit to the Congress the report summarizing the results of the review of the principles and concepts of the compensation system for members of the uniformed services, as required by P.L. 89-132, Sec. 2(a), August 21, 1965 (37 U.S.C. 1008(b)).

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

**§ 1009. Adjustments of monthly basic pay**

(a) ADJUSTMENT REQUIRED.—Whenever the General Schedule of compensation for Federal classified employees, as contained in section 5332 of title 5, is adjusted upward as provided in section 5303 of such title, the President shall immediately make an upward adjustment in the monthly basic pay authorized members of the uniformed services by section 203(a) of this title.

(b) EFFECTIVENESS OF ADJUSTMENT.—An adjustment under this section shall—

(1) have the force and effect of law; and

(2) carry the same effective date as that applying to the compensation adjustments provided General Schedule employees.

(c) EQUAL PERCENTAGE INCREASE FOR ALL MEMBERS.—Subject to subsection (d), an adjustment under this section shall provide all eligible members with an increase in the monthly basic pay which is of the same percentage as the overall average percentage increase in the General Schedule rates of both basic pay and locality pay for civilian employees.

(d) ALLOCATION OF INCREASE AMONG PAY GRADES AND YEARS-OF-SERVICE.—(1) Subject to paragraph (2), whenever the President determines such action to be in the best interest of the Government, he may allocate the overall percentage increase in the monthly basic pay under subsection (a) among such pay grade and years-of-service categories as he considers appropriate.

(2) In making any allocation of an overall percentage increase in basic pay under paragraph (1)—

(A) the amount of the increase in basic pay for any given pay grade and years-of-service category after any allocation made under this subsection may not be less than 75 percent of the amount of the increase in the monthly basic pay that would otherwise have been effective with respect to such pay grade and years-of-service category under subsection (c); and

(B) the percentage increase in the monthly basic pay in the case of any member of the uniformed services with four years or less service may not exceed the overall percentage increase in the General Schedule rates of basic pay for civilian employees.

(e) NOTICE OF ALLOCATIONS.—Whenever the President plans to exercise the authority of the President under subsection (d) with respect to any anticipated increase in the monthly basic pay of members of the uniformed services, the President shall advise Congress, at the earliest practicable time prior to the effective date of such increase, regarding the proposed allocation of such increase.

(f) PROTECTION OF MEMBER'S TOTAL COMPENSATION WHILE PERFORMING CERTAIN DUTY.—(1) The total daily equivalent amount of the elements of compensation described in paragraph (3), together with other pay and allowances under this title, to be paid to a member of the uniformed services who is temporarily assigned to duty away from the member's permanent duty station or to duty under field conditions at the member's permanent duty station shall not be less, for any day during the assignment period, than the total amount, for the day immediately preceding the date of the assignment, of the elements of compensation and other pay and allowances of the member.

(2) Paragraph (1) shall not apply with respect to an element of compensation or other pay or allowance of a member during an assignment described in such paragraph to the extent that the element of compensation or other pay or allowance is reduced or terminated due to circumstances unrelated to the assignment.

(3) The elements of compensation referred to in this subsection mean—

(A) the monthly basic pay authorized members of the uniformed services by section 203(a) of this title;

(B) the basic allowance for subsistence authorized members of the uniformed services by section 402 of this title; and

(C) the basic allowance for housing authorized members of the uniformed services by section 403 of this title.

(g) **QUADRENNIAL ASSESSMENT OF ALLOCATIONS.**—The allocations of increases made under this section shall be assessed in conjunction with the quadrennial review of military compensation required by section 1008(b) of this title.

(Added Pub. L. 93-419, § 4, Sept. 19, 1974, 88 Stat. 1152; amended Pub. L. 94-361, title III, § 303, July 14, 1976, 90 Stat. 925; Pub. L. 96-342, title VIII, § 803, Sept. 8, 1980, 94 Stat. 1091; Pub. L. 96-513, title V, § 516(24), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 102-25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title VI, § 642(c), Feb. 10, 1996, 110 Stat. 368; Pub. L. 105-85, div. A, title VI, §§ 604(a)(1), 605, Nov. 18, 1997, 111 Stat. 1783, 1784.)

#### REFERENCES IN TEXT

The General Schedule, referred to in subsecs. (b)(2), (c), and (d)(2)(B), is set out under section 5332 of Title 5, Government Organization and Employees.

#### AMENDMENTS

1997—Pub. L. 105-85, § 604(a)(1), amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to adjustments of compensation for members of the uniformed services.

Subsecs. (f), (g). Pub. L. 105-85, § 605, added subsec. (f) and redesignated former subsec. (f) as (g).

1996—Subsec. (f). Pub. L. 104-106 struck out “, and a full report shall be made to the Congress summarizing the objectives and results of those allocations” after “of this title”.

1991—Subsecs. (b)(3), (c) to (e). Pub. L. 102-25 struck out “of this section” and “of this subsection” wherever appearing.

1980—Subsec. (a). Pub. L. 96-513, § 516(24)(A), struck out “, United States Code,” after “5”.

Subsec. (b)(2). Pub. L. 96-513, § 516(24)(B), struck out reference to section 8 of the Act of Dec. 16, 1967 (Pub. L. 90-207).

Subsec. (b)(3). Pub. L. 96-513, § 803(1), substituted “subsections (c) and (d) of this section” for “subsection (c)”.

Subsec. (c). Pub. L. 96-342, § 803(2), (3), redesignated existing provision as par. (1), inserted “of this section” after “subsection (b)(3)” in two places and after “subsection (a)”, substituted “75 percent” for “75 per centum”, redesignated subsec. (d) as par. (2), substituted “under paragraph (1) of this subsection” for “under subsection (c)” in two places, inserted “of this section” after “subsection (a)”, “subsection (c)”, and “subsection (b)(3)”, respectively, and “of this title” after “section 403(b) or (c)” in two places.

Subsec. (d). Pub. L. 96-342, § 803(3), (4), added subsec. (d) and redesignated former subsec. (d) as (c)(2).

Subsec. (e). Pub. L. 96-342, § 803(5), inserted “or (d) of this section” after “subsection (c)” and struck out “among the different elements of compensation” after “allocation of such increase”.

Subsec. (f). Pub. L. 96-342, § 803(6), struck out “among the three elements of compensation” after “under this section” and inserted “of this title” after “section 1008(b)”.

1976—Subsec. (b)(3). Pub. L. 94-361, § 303(a), inserted introductory phrase “subject to subsection (c)”.

Subsecs. (c) to (f). Pub. L. 94-361, § 303(b), added subsecs. (c) to (f).

#### EFFECTIVE DATE OF 1997 AMENDMENT

Section 604(b) of Pub. L. 105-85 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on January 1, 1998.”

#### EFFECTIVE DATE OF 1980 AMENDMENT

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

#### EFFECTIVE DATE

Section 9 of Pub. L. 93-419 provided that: “This Act [enacting this section, amending sections 101, 203, 402, and 403 of this title, and enacting provisions set out as notes under this section] is effective upon enactment [Sept. 19, 1974].”

#### MILITARY PAY RAISE FOR FISCAL YEAR 1999

Pub. L. 105-261, div. A, title VI, § 601, Oct. 17, 1998, 112 Stat. 2036, provided that:

“(a) **WAIVER OF SECTION 1009 ADJUSTMENT.**—Except as provided in subsection (b), the adjustment to become effective during fiscal year 1999 required by section 1009 of title 37, United States Code, in the rate of monthly basic pay authorized members of the uniformed services by section 203(a) of such title shall not be made.

“(b) **INCREASE IN BASIC PAY.**—Effective on January 1, 1999, the rates of basic pay of members of the uniformed services shall be increased by the greater of—

“(1) 3.6 percent; or

“(2) the percentage increase determined under subsection (c) of section 1009 of title 37, United States Code, by which the monthly basic pay of members would be adjusted under subsection (a) of that section on that date in the absence of subsection (a) of this section.”

#### MILITARY PAY RAISE FOR FISCAL YEAR 1998

Section 601 of Pub. L. 105-85 provided that:

“(a) **WAIVER OF SECTION 1009 ADJUSTMENT.**—The adjustment, to become effective during fiscal year 1998, required by section 1009 of title 37, United States Code (as amended by section 604), in the rate of monthly basic pay authorized members of the uniformed services by section 203(a) of such title shall not be made.

“(b) **INCREASE IN BASIC PAY.**—Effective on January 1, 1998, the rates of basic pay of members of the uniformed services are increased by 2.8 percent.”

#### MILITARY PAY RAISE FOR FISCAL YEAR 1997

Pub. L. 104-201, div. A, title VI, § 601, Sept. 23, 1996, 110 Stat. 2539, provided that:

“(a) **WAIVER OF SECTION 1009 ADJUSTMENT.**—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1997 shall not be made.

“(b) **INCREASE IN BASIC PAY AND BAS.**—Effective on January 1, 1997, the rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 3.0 percent.

“(c) **INCREASE IN BAQ.**—Effective on January 1, 1997, the rates of basic allowance for quarters of members of the uniformed services are increased by 4.6 percent.”

#### MILITARY PAY RAISE FOR FISCAL YEAR 1996

Section 601 of Pub. L. 104-106 provided that:

“(a) **RESCISSION OF PRIOR SECTION 1009 ADJUSTMENT.**—The adjustment made as of January 1, 1996, pursuant to section 4 of Executive Order No. 12984 (issued December 28, 1995) [5 U.S.C. 5332 note], in elements of compensation of members of the uniformed services pursuant to section 1009 of title 37, United States Code, is hereby rescinded.

“(b) **INCREASE IN BASIC PAY AND BAS.**—The rates of basic pay and basic allowance for subsistence of members of the uniformed services, as in effect on December 31, 1995, are hereby increased by 2.4 percent.

“(c) INCREASE IN BAQ.—The rates of basic allowance for quarters of members of the uniformed services, as in effect on December 31, 1995, are hereby increased by 5.2 percent.

“(d) EFFECTIVE DATE.—This section shall take effect as of January 1, 1996.”

MILITARY PAY RAISE FOR FISCAL YEAR 1995

Pub. L. 103-337, div. A, title VI, §601(a), (b), Oct. 5, 1994, 108 Stat. 2779, provided that:

“(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1995 shall not be made.

“(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1995, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 2.6 percent.”

MILITARY PAY RAISE FOR FISCAL YEAR 1994

Pub. L. 103-160, div. A, title VI, §601, Nov. 30, 1993, 107 Stat. 1677, provided that:

“(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1994 shall not be made.

“(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1994, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 2.2 percent.”

MILITARY PAY RAISE FOR FISCAL YEAR 1993

Pub. L. 102-484, div. A, title VI, §601, Oct. 23, 1992, 106 Stat. 2420, provided that:

“(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1993 shall not be made.

“(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1993, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3.7 percent.”

RATE OF BASIC PAY APPLICABLE TO CERTAIN MEMBERS WITH OVER 24 YEARS OF SERVICE

Pub. L. 102-484, div. D, title XLIV, §4402, Oct. 23, 1992, 106 Stat. 2701, as amended by Pub. L. 103-160, div. A, title VI, §602(a), (b)(1), Nov. 30, 1993, 107 Stat. 1678, provided that:

“(a) RATE OF BASIC PAY.—Subject to subsection (b), the rate of monthly basic pay for a member of the uniformed services who is entitled to such pay under section 204 of title 37, United States Code, is in pay grade E-7, E-8, E-9, W-4, W-5, or O-6, and has over 24, but under 26, years of service (as computed under section 205 of such title) shall be as set forth in the following table:

“Rate of Monthly Basic Pay	
Pay Grade	24-26 Years of Service
E-7 .....	\$2,359.30
E-8 .....	\$2,639.70
E-9 .....	\$2,977.70
W-4 .....	\$3,430.90
W-5 .....	\$3,827.30
O-6 .....	\$5,417.70

“(b) APPLICATION OF PAY RATE.—The rates of monthly basic pay established under subsection (a) shall be effective for months beginning after December 31, 1992.

“(c) ADJUSTMENTS OF COMPENSATION.—The rates of monthly basic pay established under subsection (a) shall be adjusted in accordance with section 1009 of title 37, United States Code, or other applicable provision of law, except that the increase in the rates of basic pay made by section 601(b) [set out above] shall not apply to the rates established under subsection (a).”

MILITARY PAY RAISE FOR FISCAL YEAR 1992

Pub. L. 102-190, div. A, title VI, §601, Dec. 5, 1991, 105 Stat. 1372, provided that:

“(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1992 shall not be made.

“(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1992, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 4.2 percent.”

RATES OF PAY AND ALLOWANCES FOR CHIEF WARRANT OFFICERS

Pub. L. 102-190, div. A, title XI, §1111(c), Dec. 5, 1991, 105 Stat. 1491, provided that: “A warrant officer who holds the grade of Chief Warrant Officer, W-5, is entitled to pay and allowances at the monthly rates as follows:

	“BASIC PAY		
	Years of service computed under section 205		
	22 or less	Over 22	Over 26
W-5 .....	3455.90	3587.10	3846.30

Pay grade	“BASIC ALLOWANCE FOR QUARTERS		
	Without dependents		With dependents
	Full rate	Partial rate	
W-5 .....	573.00	25.20	626.40

“BASIC ALLOWANCE FOR SUBSISTENCE  
134.42”

[Section 1111(c) of Pub. L. 102-190, set out above, effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as an Effective Date of 1991 Amendment note under section 521 of Title 10, Armed Forces.]

MILITARY PAY RAISE FOR FISCAL YEAR 1991

Pub. L. 101-510, div. A, title VI, §601, Nov. 5, 1990, 104 Stat. 1575, provided that:

“(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1991 shall not be made.

“(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1991, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 4.1 percent.”

MILITARY PAY RAISE FOR FISCAL YEAR 1990

Pub. L. 101-189, div. A, title VI, §601(a), (b), Nov. 29, 1989, 103 Stat. 1444, provided that:

“(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members

of the uniformed services to become effective during fiscal year 1990 shall not be made.

“(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3.6 percent effective on January 1, 1990.”

#### MILITARY PAY RAISE FOR FISCAL YEAR 1989

Pub. L. 100-456, div. A, title VI, §601(a), (b), Sept. 29, 1988, 102 Stat. 1976, provided that:

“(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

“(b) INCREASE IN BASIC PAY AND BAS.—The rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 4.1 percent effective on January 1, 1989.”

#### MILITARY PAY RAISE FOR FISCAL YEAR 1988

Pub. L. 100-180, div. A, title VI, §601(a), (b), Dec. 4, 1987, 101 Stat. 1092, as amended by Pub. L. 100-202, §110(b), Dec. 22, 1987, 101 Stat. 1329-436, provided that:

“(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1988 shall not be made.

“(b) TWO PERCENT INCREASE IN BASIC PAY, BAQ, AND BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are increased by 2 percent effective on January 1, 1988.”

#### MILITARY PAY RAISE FOR FISCAL YEAR 1987

Pub. L. 99-661, div. A, title XIII, §1310(c), Nov. 14, 1986, 100 Stat. 3983, provided that: “Subject to the condition specified in subsection (a), the percentage of the increase in basic pay, basic allowance for quarters, and basic allowance for subsistence for members of the uniformed services, and the increase in pay for cadets and midshipmen, specified in sections 601(b) [set out below] and 601(c) [amending section 203 of this title], respectively, of this Act is hereby reduced from 3 percent to 2 percent.”

[The condition specified in subsection (a) is the condition specified in section 1310(a) of Pub. L. 99-661, which was not classified to the Code, but was met by enactment of section 1013 of this title by Pub. L. 99-500 and Pub. L. 99-591.]

Pub. L. 99-661, div. A, title VI, §601(a), (b), Nov. 14, 1986, 100 Stat. 3873, provided that:

“(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1987 shall not be made.

“(b) THREE PERCENT INCREASE IN BASIC PAY, BASIC ALLOWANCE FOR QUARTERS, AND BASIC ALLOWANCE FOR SUBSISTENCE.—The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3 percent effective on January 1, 1987.”

Substantially identical provisions were contained in Pub. L. 99-500, §144(b), Oct. 18, 1986, 100 Stat. 1783-350, and Pub. L. 99-591, §144(b), Oct. 30, 1986, 100 Stat. 3341-353.

#### MILITARY PAY RAISE FOR FISCAL YEAR 1986

Pub. L. 99-145, title VI, §601, Nov. 8, 1985, 99 Stat. 635, provided that:

“(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of the compensation of members of the uniformed services to become effective during fiscal year 1986 shall not be made.

“(b) THREE PERCENT PAY RAISE.—The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3 percent effective on October 1, 1985.”

#### MILITARY PAY RAISES FOR FISCAL YEAR 1985

Pub. L. 98-525, title VI, §601, Oct. 19, 1984, 98 Stat. 2533, provided that:

“(a) Any adjustment required by section 1009 of title 37, United States Code, in elements of the compensation of members of the uniformed services to become effective during fiscal year 1985 shall not be made.

“(b)(1) Except as provided in paragraph (2), the rates of basic pay and basic allowances for subsistence for members of the uniformed services are increased by 4 percent effective on January 1, 1985.

“(2) The increase in rates of basic pay and basic allowances for subsistence provided for in paragraph (1) shall not apply to enlisted members in pay grade E-1 with less than 4 months active duty.”

DELAY UNTIL APRIL 1, 1984, OF PAY ADJUSTMENT OTHERWISE EFFECTIVE OCTOBER 1, 1983; LIMIT; CONDITIONS FOR EARLIER EFFECTIVE DATE

Pub. L. 98-94, title IX, §901, Sept. 24, 1983, 97 Stat. 634, provided that:

“(a) The adjustment required by section 1009 of title 37, United States Code, in certain elements of the compensation of members of the uniformed services to become effective on October 1, 1983, shall not be made.

“(b)(1) Subject to the provisions of paragraphs (2) and (3), each element of compensation specified in section 1009(a) of title 37, United States Code, shall be increased for members of the uniformed services by 4 percent effective on April 1, 1984.

“(2) The increase provided for in paragraph (1) shall not apply to enlisted members in pay grade E-1 with less than 4 months active duty.

“(3) The President may allocate the percentage increase specified under paragraphs (1) and (2) in the same manner and to the same extent the President is authorized under subsections (c) and (d) of section 1009 of title 37, United States Code, to allocate any percentage increase described in subsection (b)(3) of section 1009 of such title.

“(c) Notwithstanding the effective date of April 1, 1984, prescribed in subsection (b) for the increase in compensation of members of the uniformed services, if an adjustment is made after the date of the enactment of this Act [Sept. 24, 1983] in the General Schedule [5 U.S.C. 5332 note] of compensation for Federal classified employees and such adjustment is to become effective before April 1, 1984, the increase in the compensation of members of the uniformed services provided for in subsection (b) shall become effective on the first day of the first pay period for members of the uniformed services which begins on or after the effective date of the adjustment made in the compensation of Federal classified employees.”

PAY INCREASE OF 11.7 PERCENT FOR MEMBERS OF THE UNIFORMED SERVICES EFFECTIVE WITH THE FIRST PAY PERIOD BEGINNING AFTER SEPTEMBER 30, 1980

Section 801 of Pub. L. 96-342 provided that:

“(a) Any adjustment required under the provisions of section 1009 of title 37, United States Code, relating to adjustments in the compensation of members of the uniformed services, which would otherwise first become effective beginning with any pay period in fiscal year 1981 shall not become effective.

“(b)(1) Subject to the provisions of paragraph (2), each element of compensation specified in section 1009(a) of title 37, United States Code, shall be increased for members of the uniformed services by 11.7 percent effective with the first pay period beginning after September 30, 1980.

“(2) The President may allocate the percentage increase specified under paragraph (1) in the same man-

ner and to the same extent the President is authorized under subsections (c) and (d) of section 1009 of title 37, United States Code, as amended by section 803 of this Act, to allocate any percentage increase described in subsection (b)(3) of section 1009 of such title, except that—

“(A) the provisions of subsection (d)(2)(B) of such section shall not apply to this subsection or any action of the President under this subsection; and

“(B) the overall average percentage increase in the elements of compensation specified in subsection (a) of such section in the case of any member of the uniformed services with four years or less service may not exceed 11.7 percent.”

LIMITS OF UPWARD ADJUSTMENT OF COMPENSATION

Pub. L. 94-106, title VIII, §819, Oct. 7, 1975, 89 Stat. 544, provided that:

“(a) Notwithstanding any other provision of law, the aggregate amount of any upward adjustments in certain elements of compensation of members of the uniformed services required by section 1009 of title 37, United States Code, may not exceed 5 per centum during the period from January 1, 1975, through June 30, 1976, except that no such restriction shall apply unless a 5 per centum restriction on the aggregate amount of upward adjustments of the General Schedule of compensation for Federal classified employees as contained in section 5332 of title 5, United States Code, is also required during that period.

“(b) No reduction in compensation is required under subsection (a) of any upward adjustment that may have been put into effect under section 1009 of title 37, United States Code, between January 1, 1975, and the date of enactment of this section [Oct. 7, 1975].

“(c) Any upward adjustment in compensation which has been limited by subsection (a) of this section to an amount or amounts less than otherwise would have been in effect shall not be increased subsequent to June 30, 1976—

“(1) in order to compensate a member for the difference between the amounts he has received under the provisions of subsection (a) and the amounts he would have otherwise received; or

“(2) except in accordance with the normal procedures and timing which would have been in effect for any such pay increase subsequent to June 30, 1976, without regard to any limitation under subsection (a) of this section.”

RATES OF MONTHLY BASIC PAY

Section 5 of Pub. L. 93-419 provided that: “Until the effective date of the first upward adjustment in the rates of monthly basic pay for members of the uniformed services made by the President under section 1009 of title 37, United States Code, as added by section 4 of this Act, after the effective date of this Act [Sept. 19, 1974], the rates of monthly basic pay for members of the uniformed services authorized by section 203(a) of that title are those prescribed by Executive Order 11740 of October 3, 1973, which became effective on October 1, 1973.”

RATES OF BASIC ALLOWANCE FOR SUBSISTENCE

Section 6 of Pub. L. 93-419 provided that: “Until the effective date of the first upward adjustment in the rates of basic allowance for subsistence for enlisted members and officers made by the President under section 1009 of title 37, United States Code, as added by section 4 of this Act, after the effective date of this Act [Sept. 19, 1974], the rates prescribed under section 402 of title 37, United States Code, as it existed on the date before the effective date of this Act, shall continue in effect.”

RATES OF BASIC ALLOWANCE FOR QUARTERS

Section 7 of Pub. L. 93-419 provided that: “Until the effective date of the first adjustment in the rates of

basic allowance for quarters for members of the uniformed services made by the President under section 1009 of title 37, United States Code, as added by section 4 of this Act, after the effective date of this Act [Sept. 19, 1974], the rates of basic allowance for quarters prescribed in section 403(a) of title 37, United States Code, as it existed on the day before the effective date of this Act, shall continue in effect.”

ADJUSTMENT OF PAY RATES EFFECTIVE OCTOBER 1, 1981

Pub. L. 97-60, title I, §101, Oct. 14, 1981, 95 Stat. 989, as amended by Pub. L. 98-557, §35(a), (c), Oct. 30, 1984, 98 Stat. 2877, eff. Oct. 1, 1984; Pub. L. 100-180, div. A, title XIII, §1314(d)(3), (e)(2), Dec. 4, 1987, 101 Stat. 1176, eff. Oct. 1, 1986, set forth tables specifying the increased rates of monthly basic pay for members of the uniformed services, effective Oct. 1, 1981, and provided that the adjustment required by section 1009 of this title in certain elements of the compensation of members of the uniformed services which was to become effective on Oct. 1, 1981, should not be made, and no adjustment of the compensation of any member of a uniformed service should be made pursuant to such section for the period beginning on Oct. 1, 1981, and ending on Oct. 14, 1981.

ADJUSTMENT OF PAY RATES EFFECTIVE JANUARY 1, 1999

Ex. Ord. No. 13106, Dec. 7, 1998, 63 F.R. 68151, set out as a note under section 5332 of Title 5, Government Organization and Employees, provided for an adjustment of pay rates under this section effective Jan. 1, 1999. See Schedule set out below:

SCHEDULE 8					
<i>Pay of the Uniformed Services</i>					
(Effective on January 1, 1999)					
PART I—MONTHLY BASIC PAY					
Years of Service (computed under 37 U.S.C. 205)					
Commissioned Officers					
Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-10 <sup>1</sup> ..	\$7,838.70	\$8,114.40	\$8,114.40	\$8,114.40	\$8,114.40
O-9 .....	6,947.10	7,129.20	7,281.00	7,281.00	7,281.00
O-8 .....	6,292.20	6,481.20	6,634.50	6,634.50	6,634.50
O-7 .....	5,228.40	5,583.90	5,583.90	5,583.90	5,834.40
O-6 .....	3,875.10	4,257.30	4,536.60	4,536.60	4,536.60
O-5 .....	3,099.60	3,639.30	3,891.00	3,891.00	3,891.00
O-4 .....	2,612.40	3,181.20	3,393.30	3,393.30	3,456.30
O-3 <sup>2</sup> .....	2,427.60	2,714.10	2,901.90	3,210.60	3,364.50
O-2 <sup>2</sup> .....	2,117.10	2,312.10	2,777.70	2,871.30	2,930.40
O-1 <sup>2</sup> .....	1,838.10	1,913.10	2,312.10	2,312.10	2,312.10
	Over 8	Over 10	Over 12	Over 14	Over 16
O-10 <sup>1</sup> ..	\$8,425.80	\$8,425.80	\$8,892.60	\$8,892.60	*\$9,528.90
O-9 .....	7,466.10	7,466.10	7,776.90	7,776.90	8,425.80
O-8 .....	7,129.20	7,129.20	7,466.10	7,466.10	7,776.90
O-7 .....	5,834.40	6,172.50	6,172.50	6,481.20	7,129.20
O-6 .....	4,536.60	4,536.60	4,536.60	4,630.80	5,432.40
O-5 .....	3,891.00	4,008.00	4,224.30	4,507.50	4,845.00
O-4 .....	3,608.70	3,855.30	4,071.90	4,257.30	4,444.80
O-3 <sup>2</sup> .....	3,484.80	3,673.80	3,855.30	3,949.50	3,949.50
O-2 <sup>2</sup> .....	2,930.40	2,930.40	2,930.40	2,930.40	2,930.40
O-1 <sup>2</sup> .....	2,312.10	2,312.10	2,312.10	2,312.10	2,312.10
	Over 18	Over 20	Over 22	Over 24	Over 26
O-10 <sup>1</sup> ..	*\$9,528.90	*\$10,167.00	*\$10,167.00	*\$10,167.00	*\$10,800.00
O-9 .....	8,425.80	8,892.60	8,892.60	8,892.60	*9,528.90
O-8 .....	8,114.40	8,425.80	8,633.70	8,633.70	8,633.70
O-7 .....	7,619.70	7,619.70	7,619.70	7,619.70	7,619.70
O-6 .....	5,709.60	5,834.40	6,172.50	6,381.00	6,694.20
O-5 .....	5,122.20	5,277.90	5,462.40	5,462.40	5,462.40
O-4 .....	4,566.60	4,566.60	4,566.60	4,566.60	4,566.60
O-3 <sup>2</sup> .....	3,949.50	3,949.50	3,949.50	3,949.50	3,949.50
O-2 <sup>2</sup> .....	2,930.40	2,930.40	2,930.40	2,930.40	2,930.40
O-1 <sup>2</sup> .....	2,312.10	2,312.10	2,312.10	2,312.10	2,312.10

<sup>1</sup>For officers serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, basic pay for this grade is calculated to be \$11,916.60 per month, regardless of cumulative years of service computed under section 205 of title 37, United States Code. Nevertheless, actual basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule, which is \$9,225.00 per month.

<sup>2</sup>Does not apply to commissioned officers who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.



\*Basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule, which is \$9,225.00 per month.

Commissioned officers with over 4 years of active duty service as an enlisted member or warrant officer

Pay Grade	Over 4	Over 6	Over 8	Over 10
O-3E ....	\$3,210.60	\$3,364.50	\$3,484.80	\$3,673.80
O-2E ....	2,871.30	2,930.40	3,023.40	3,181.20
O-1E ....	2,312.10	2,469.90	2,560.80	2,653.80
	Over 12	Over 14	Over 16	Over 18
O-3E ....	\$3,855.30	\$4,008.00	\$4,008.00	\$4,008.00
O-2E ....	3,303.00	3,393.30	3,393.30	3,393.30
O-1E ....	2,745.90	2,871.30	2,871.30	2,871.30
	Over 20	Over 22	Over 24	Over 26
O-3E ....	\$4,008.00	\$4,008.00	\$4,008.00	\$4,008.00
O-2E ....	3,393.30	3,393.30	3,393.30	3,393.30
O-1E ....	2,871.30	2,871.30	2,871.30	2,871.30

Warrant Officers

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W-5 .....	.....	.....	.....	.....	.....
W-4 .....	\$2,473.20	\$2,653.80	\$2,653.80	\$2,714.10	\$2,838.00
W-3 .....	2,247.90	2,438.40	2,438.40	2,469.90	2,498.70
W-2 .....	1,968.90	2,130.30	2,130.30	2,192.10	2,312.10
W-1 .....	1,640.40	1,880.70	1,880.70	2,037.90	2,130.30
	Over 8	Over 10	Over 12	Over 14	Over 16
W-5 .....	.....	.....	.....	.....	.....
W-4 .....	\$2,962.80	\$3,087.30	\$3,303.00	\$3,456.30	\$3,577.80
W-3 .....	2,681.70	2,838.00	2,930.40	3,023.40	3,114.00
W-2 .....	2,438.40	2,531.10	2,623.80	2,714.10	2,809.50
W-1 .....	2,221.50	2,312.10	2,407.20	2,498.70	2,591.70
	Over 18	Over 20	Over 22	Over 24	Over 26
W-5 .....	.....	\$4,221.30	\$4,380.90	\$4,507.80	\$4,697.70
W-4 .....	\$3,673.80	3,792.00	3,918.90	4,041.00	4,224.30
W-3 .....	3,210.60	3,335.70	3,456.30	3,456.30	3,577.80
W-2 .....	2,901.90	2,993.10	3,114.00	3,114.00	3,114.00
W-1 .....	2,681.70	2,777.70	2,777.70	2,777.70	2,777.70

Enlisted Members

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E-9 <sup>1</sup> .....	.....	.....	.....	.....	.....
E-8 .....	.....	.....	.....	.....	.....
E-7 .....	\$1,684.80	\$1,818.90	\$1,885.50	\$1,952.10	\$2,018.70
E-6 .....	1,449.30	1,579.80	1,645.50	1,715.40	1,779.90
E-5 .....	1,271.70	1,384.20	1,451.40	1,514.70	1,614.30
E-4 .....	1,185.90	1,252.80	1,326.60	1,429.60	1,485.30
E-3 .....	1,117.80	1,179.00	1,225.80	1,274.70	1,274.70
E-2 .....	1,075.80	1,075.80	1,075.80	1,075.80	1,075.80
E-1 <sup>2</sup> .....	959.40	959.40	959.40	959.40	959.40
E-1 <sup>3</sup> .....	887.70	.....	.....	.....	.....
	Over 8	Over 10	Over 12	Over 14	Over 16
E-9 <sup>1</sup> .....	.....	\$2,877.30	\$2,942.10	\$3,008.40	\$3,078.00
E-8 .....	\$2,412.60	2,482.50	2,547.30	2,613.60	2,682.90
E-7 .....	2,082.90	2,149.50	2,216.70	2,316.60	2,382.60
E-6 .....	1,844.10	1,911.60	2,010.00	2,073.30	2,140.20
E-5 .....	1,680.30	1,746.30	1,811.10	1,844.10	1,844.10
E-4 .....	1,485.30	1,485.30	1,485.30	1,485.30	1,485.30
E-3 .....	1,274.70	1,274.70	1,274.70	1,274.70	1,274.70
E-2 .....	1,075.80	1,075.80	1,075.80	1,075.80	1,075.80
E-1 <sup>2</sup> .....	959.40	959.40	959.40	959.40	959.40
E-1 <sup>3</sup> .....	.....	.....	.....	.....	.....
	Over 18	Over 20	Over 22	Over 24	Over 26
E-9 <sup>1</sup> .....	\$3,147.00	\$3,207.60	\$3,375.90	\$3,507.30	\$3,704.70
E-8 .....	2,743.80	2,811.30	2,976.60	3,108.90	3,308.40
E-7 .....	2,448.60	2,480.40	2,647.20	2,778.90	2,976.60
E-6 .....	2,172.60	2,172.60	2,172.60	2,172.60	2,172.60
E-5 .....	1,844.10	1,844.10	1,844.10	1,844.10	1,844.10
E-4 .....	1,485.30	1,485.30	1,485.30	1,485.30	1,485.30
E-3 .....	1,274.70	1,274.70	1,274.70	1,274.70	1,274.70
E-2 .....	1,075.80	1,075.80	1,075.80	1,075.80	1,075.80
E-1 <sup>2</sup> .....	959.40	959.40	959.40	959.40	959.40
E-1 <sup>3</sup> .....	.....	.....	.....	.....	.....

<sup>1</sup>For noncommissioned officers serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is \$4,503.00 per month, regardless of cumulative years of service under section 205 of title 37, United States Code.

<sup>2</sup>Applies to personnel who have served 4 months or more on active duty.

<sup>3</sup>Applies to personnel who have served less than 4 months on active duty.

PART II—RATE OF MONTHLY CADET OR MIDSHIPMAN PAY

The rate of monthly cadet or midshipman pay authorized by section 203(c) of title 37, United States Code, is \$600.00.

NOTE: As a result of the enactment of sections 602-604 of Public Law 105-85 [see Tables for classification], the National Defense Authorization Act for Fiscal Year 1998, the Secretary of Defense now has the authority to adjust the rates of basic allowances for subsistence and housing. Therefore, these allowances are no longer adjusted by the President in conjunction with the adjustment of basic pay for members of the uniformed services. Accordingly, the tables of allowances included in previous orders are not included here.

EXECUTIVE ORDER NO. 11812

Ex. Ord. No. 11812, Oct. 7, 1974, 39 F.R. 36307, which provided for the adjustment of pay rates effective Oct. 1, 1974, was superseded by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091.

EXECUTIVE ORDER NO. 11883

Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, which provided for the adjustment of pay rates effective Oct. 1, 1975, was superseded by Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 11941

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43899, as amended by Ex. Ord. No. 11943, Oct. 25, 1976, 41 F.R. 47213, which provided for the adjustment of pay rates effective Oct. 1, 1976, was superseded by Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 11998

Ex. Ord. No. 11998, June 27, 1977, 42 F.R. 33021, which related to the President's Commission on Military Compensation, was revoked by Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, formerly set out as a note under section 14 of the Appendix to Title 5.

EXECUTIVE ORDER NO. 12010

Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, which provided for the adjustment of pay rates effective Oct. 1, 1977, was superseded by Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12087

Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, which provided for the adjustment of pay rates effective Oct. 1, 1978, was superseded by Ex. Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12165

Ex. Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671, as amended by Ex. Ord. No. 12200, Mar. 12, 1980, 44 F.R. 16443, which provided for the adjustment of pay rates effective Oct. 1, 1979, was superseded by Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12248

Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, which provided for adjustment of pay rates effective Oct. 1, 1981, was superseded by Ex. Ord. No. 12330, Oct. 15, 1981, 46 F.R. 50921, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12330

Ex. Ord. No. 12330, Oct. 15, 1981, 46 F.R. 50921, which provided for adjustment of pay rates effective Oct. 1,

1981, was superseded by Ex. Ord. No. 12387, Oct. 8, 1982, 47 F.R. 44981, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12387

Ex. Ord. No. 12387, Oct. 8, 1982, 47 F.R. 44981, which provided for the adjustment of pay rates effective Oct. 1, 1982, was superseded by Ex. Ord. No. 12456, Dec. 30, 1983, 49 F.R. 347, as amended Ex. Ord. No. 12477, May 23, 1984, 49 F.R. 22041; Ex. Ord. No. 12487, Sept. 14, 1984, 49 F.R. 36493, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12456

Ex. Ord. No. 12456, Dec. 30, 1983, 49 F.R. 347, as amended by Ex. Ord. No. 12477, May 23, 1984, 49 F.R. 22041; Ex. Ord. No. 12487, Sept. 14, 1984, 49 F.R. 36493, which provided for adjustment of pay rates effective Jan. 1, 1984, was superseded by Ex. Ord. No. 12496, Dec. 28, 1984, 50 F.R. 211, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12496

Ex. Ord. No. 12496, Dec. 28, 1984, 50 F.R. 211, as amended by Ex. Ord. No. 12540, Dec. 30, 1985, 51 F.R. 577, which provided for the adjustment of pay rates effective Jan. 1, 1985, was superseded by Ex. Ord. No. 12578, Dec. 31, 1986, 52 F.R. 505, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12578

Ex. Ord. No. 12578, Dec. 31, 1986, 52 F.R. 505, which provided for the adjustment of pay rates effective Jan. 1, 1987, was superseded by Ex. Ord. No. 12622, Dec. 31, 1987, 53 F.R. 222, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12622

Ex. Ord. No. 12622, Dec. 31, 1987, 53 F.R. 222, which provided for the adjustment of pay rates effective Jan. 1, 1988, was superseded by Ex. Ord. No. 12663, Jan. 6, 1989, 54 F.R. 791, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12663

Ex. Ord. No. 12663, Jan. 6, 1989, 54 F.R. 791, which provided for the adjustment of pay rates effective Jan. 1, 1989, was superseded by Ex. Ord. No. 12698, Dec. 23, 1989, 54 F.R. 53473, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12698

Ex. Ord. No. 12698, Dec. 23, 1989, 54 F.R. 53473, which provided for adjustments of pay rates effective Jan. 1, 1990, and Feb. 1, 1990, was superseded by Ex. Ord. No. 12736, Dec. 12, 1990, 55 F.R. 51385, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12736

Ex. Ord. No. 12736, Dec. 12, 1990, 55 F.R. 51385, which provided for the adjustment of pay rates effective Jan. 1, 1991, was superseded by Ex. Ord. No. 12786, Dec. 26, 1991, 56 F.R. 67453, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12786

Ex. Ord. No. 12786, Dec. 26, 1991, 56 F.R. 67453, which provided for the adjustment of pay rates effective Jan. 1, 1992, was superseded by Ex. Ord. No. 12826, Dec. 30, 1992, 57 F.R. 62909, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12826

Ex. Ord. No. 12826, Dec. 30, 1992, 57 F.R. 62909, which provided for the adjustment of pay rates effective Jan. 1, 1993, was superseded by Ex. Ord. No. 12944, Dec. 28,

1994, 60 F.R. 309, formerly set out as a note under section 5332 of Title 5. Previously § 4 and schedule 8 of Ex. Ord. No. 12826 were superseded by Ex. Ord. No. 12886, Dec. 23, 1993, 58 F.R. 68709, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12886

Ex. Ord. No. 12886, Dec. 23, 1993, 58 F.R. 68709, which provided for the adjustment of pay rates effective Jan. 1, 1994, was superseded by Ex. Ord. No. 12944, Dec. 28, 1994, 60 F.R. 309, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12944

Ex. Ord. No. 12944, Dec. 28, 1994, 60 F.R. 309, which provided for the adjustment of pay rates effective Jan. 1, 1995, was superseded by Ex. Ord. No. 12984, Dec. 28, 1995, 61 F.R. 237, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12984

Ex. Ord. No. 12984, § 4, schedule 8, Dec. 28, 1995, 61 F.R. 237, 243, which provided for the adjustment of pay rates effective Jan. 1, 1996, was superseded by Ex. Ord. No. 12990, Feb. 29, 1996, 61 F.R. 8467, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 12990

Ex. Ord. No. 12990, Feb. 29, 1996, 61 F.R. 8467, which provided for the adjustment of pay rates effective Jan. 1, 1996, was superseded by Ex. Ord. No. 13033, Dec. 27, 1996, 61 F.R. 68987, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 13033

Ex. Ord. No. 13033, Dec. 27, 1996, 61 F.R. 68987, which provided for the adjustment of pay rates effective Jan. 1, 1997, was superseded by Ex. Ord. No. 13071, Dec. 29, 1997, 62 F.R. 68521, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER No. 13071

Ex. Ord. No. 13071, Dec. 29, 1997, 62 F.R. 68521, which provided for the adjustment of pay rates effective Jan. 1, 1998, was superseded by Ex. Ord. No. 13106, Dec. 7, 1998, 63 F.R. 68151, set out as a note under section 5332 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 203, 403 of this title; title 2 section 906; title 26 section 3121; title 42 section 409.

**§ 1010. Commissioned officers: promotion; effective date for pay and allowances**

An officer of a uniformed service who is promoted to a grade above second lieutenant or ensign is entitled to the pay and allowances of the grade to which promoted on the effective date of the promotion.

(Added Pub. L. 96-513, title IV, § 403(c), Dec. 12, 1980, 94 Stat. 2905.)

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of Title 10, Armed Forces.

**§ 1011. Mess operation: reimbursement of expenses**

(a) The Secretary of Defense shall, by regulation, establish rates for meals sold at messes to

officers, civilians, and enlisted members. Such rates shall be established at a level sufficient to provide reimbursement of operating expenses and food costs to the appropriations concerned, but members of the uniformed services and civilians in a travel status receiving a per diem allowance in lieu of subsistence shall be charged at a rate of not less than \$2.50 per day. Notwithstanding the preceding sentence, if the Secretary determines that it is in the best interest of the United States, the Secretary may reduce a rate for meals established under this subsection by the amount of that rate attributable to operating expenses.

(b) For the purposes of this section, payment for meals at the rates established under this section may be made in cash or, in the case of enlisted members or civilian employees, by deduction from pay. Members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation or when residing at a military installation pursuant to an agreement in effect on June 30, 1986, and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.

(c) Spouses and dependent children of enlisted members in pay grades E-1, E-2, E-3, and E-4 may not be charged for meals sold at messes in excess of a level sufficient to cover food costs.

(d) When the Coast Guard is not operating as a service in the Navy, the Secretary of Transportation shall establish rates for meals sold at Coast Guard dining facilities, provide for reimbursement of operating expenses and food costs to the appropriations concerned, and reduce the rates for such meals when the Secretary determines that it is in the best interest of the United States to do so.

(Added Pub. L. 96-513, title IV, §413, Dec. 12, 1980, 94 Stat. 2906; amended Pub. L. 99-145, title VIII, §810(a), Nov. 8, 1985, 99 Stat. 681; Pub. L. 99-661, div. A, title VI, §655, Nov. 14, 1986, 100 Stat. 3891; Pub. L. 101-189, div. A, title III, §321, Nov. 29, 1989, 103 Stat. 1413; Pub. L. 104-324, title II, §214(a), Oct. 19, 1996, 110 Stat. 3915.)

#### AMENDMENTS

1996—Subsec. (d). Pub. L. 104-324 added subsec. (d).  
1989—Subsec. (a). Pub. L. 101-189 substituted “and enlisted members” for “or enlisted members entitled to a per diem transportation allowance determined under section 404(d)(2) of this title” and inserted at end “Notwithstanding the preceding sentence, if the Secretary determines that it is in the best interest of the United States, the Secretary may reduce a rate for meals established under this subsection by the amount of that rate attributable to operating expenses.”

1986—Subsec. (b). Pub. L. 99-661 inserted “or when residing at a military installation pursuant to an agreement in effect on June 30, 1986,” in second sentence.

1985—Subsec. (c). Pub. L. 99-145 added subsec. (c).

#### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-145 effective Oct. 1, 1985, see section 813 of Pub. L. 99-145, formerly set out in a Military Family Policy and Programs note under section 113 of Title 10, Armed Forces.

#### EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on

Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of Title 10, Armed Forces.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 404 of this title.

### § 1012. Disbursement and accounting; pay of enlisted members of the National Guard

Amounts appropriated for the pay, under subsections (a), (b), and (d) of section 206, section 301(f), section 402(b)(3),<sup>1</sup> and section 1002 of this title, of enlisted members of the Army National Guard of the United States or the Air National Guard of the United States for attending regular periods of duty and instruction shall be disbursed and accounted for by the Secretary of Defense. All such disbursements shall be made for 3-month periods for units of the Army National Guard or Air National Guard under regulations prescribed by the Secretary of Defense, and on pay rolls prepared and authenticated as prescribed in those regulations.

(Added Pub. L. 97-258, §2(i)(2)(B), Sept. 13, 1982, 96 Stat. 1061; amended Pub. L. 99-145, title XIII, §1303(b)(13)(A), (B), Nov. 8, 1985, 99 Stat. 741; Pub. L. 104-106, div. A, title VI, §602(c)(2), title IX, §913(c)(1), Feb. 10, 1996, 110 Stat. 357, 411.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1012 .....	31:698a.	Aug. 10, 1956, ch. 1041, §31, 70A Stat. 632.

The words “the Secretary concerned” are substituted for “officers and agents of the Finance Corps of the Army or finance officers of the Air Force, as the case may be” and “the Secretary of the Army or the Secretary of the Air Force, as the case may be” for consistency in the title. The words “various” and “issued” are omitted as surplus.

#### REFERENCES IN TEXT

Section 402 of this title, referred to in text, was amended generally by Pub. L. 105-85, div. A, title VI, §602(a), Nov. 18, 1997, 111 Stat. 1771, and, as so amended, does not contain a subsec. (b)(3).

#### AMENDMENTS

1996—Pub. L. 104-106 substituted “section 402(b)(3)” for “the last sentence of section 402(b)” and substituted “Secretary of Defense” for “Secretary concerned” in two places.

1985—Pub. L. 99-145 inserted “: pay of enlisted members of the National Guard” in section catchline, and substituted “for the pay, under subsections (a), (b), and (d) of section 206, section 301(f), the last sentence of section 402(b), and section 1002 of this title,” for “under sections 206(a), (b), and (d), 301(f), 309, 402(b) (last sentence), and 1002 of this title for pay”, “All such disbursements” for “Disbursements”, and “as prescribed in those” for “under the”.

#### EFFECTIVE DATE OF 1985 AMENDMENT

Section 1303(b)(13)(D) of Pub. L. 99-145 provided that: “The amendments made by this paragraph [amending this section] shall take effect as if included in the enactment of section 2(i) of Public Law 97-258 [enacting this section].”

<sup>1</sup> See References in Text note below.

**§ 1013. Payment of compensation for victims of terrorism**

Any benefit or payment pursuant to section 559 of this title, or section 1032 or 1095a or chapter 110 of title 10, shall be paid out of funds available to the Secretary concerned for military personnel.

(Added Pub. L. 99-399, title VIII, §801(e)(1), Aug. 27, 1986, 100 Stat. 888; amended Pub. L. 100-456, div. A, title XII, §1233(g)(4), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 101-510, div. A, title XIV, §1484(h)(6), Nov. 5, 1990, 104 Stat. 1718.)

## CODIFICATION

Another section 1013 was renumbered section 1014 of this title.

## AMENDMENTS

1990—Pub. L. 101-510 substituted “1095a” for “1095”.  
1988—Pub. L. 100-456 substituted “section 1032” for “section 1051”.

**§ 1014. Payment date for pay and allowances**

(a) Amounts of basic pay, basic allowance for housing, basic allowance for subsistence, and other payments of military compensation (other than travel and transportation allowances and separation allowances) shall be paid on the first day of the month beginning after the month during which the right to such compensation accrues.

(b) Subsection (a) does not preclude one payment in midmonth for any element of compensa-

tion and does not affect any authority to make advance payments of pay and allowances.

(Added Pub. L. 99-500, §101(c) [title IX, §9103(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-118, and Pub. L. 99-591, §101(c) [title IX, §9103(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-118, §1013; renumbered §1014, Pub. L. 100-26, §8(b)(2), Apr. 21, 1987, 101 Stat. 285; amended Pub. L. 105-85, div. A, title VI, §603(d)(1)(E), Nov. 18, 1997, 111 Stat. 1782.)

## CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

## AMENDMENTS

1997—Subsec. (a). Pub. L. 105-85 substituted “housing” for “quarters”.

## EFFECTIVE DATE OF 1997 AMENDMENT

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

## EFFECTIVE DATE

Section 101(c) [title IX, §9103(4)] of Pub. L. 99-500 and Pub. L. 99-591, as amended by Pub. L. 100-26, §4(a)(2), Apr. 21, 1987, 101 Stat. 274, provided that: “Section 1014 of title 37, United States Code, as added by paragraph (1) and redesignated by section 8(b)(2) of the Defense Technical Corrections Act of 1987 [Pub. L. 100-26], and the amendments made by paragraph (3) [amending section 1466 of Title 10, Armed Forces], shall take effect on September 1, 1987.”