

(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) ELIGIBILITY REQUIREMENTS.—(1) Subject to regulations prescribed by the President, a member of the naval service who is entitled to basic pay, and (A) holds (or is in training leading to) a submarine duty designator, (B) is in and remains in the submarine service on a career

basis, and (C) meets the requirements of paragraph (3), is entitled to continuous monthly submarine duty incentive pay in the amount prescribed pursuant to subsection (b).

(2) Subject to regulations prescribed by the President, a member of the naval service who is entitled to basic pay but is not entitled to continuous monthly submarine duty incentive pay under paragraph (1) is entitled to submarine duty incentive pay in the amount prescribed pursuant to subsection (b) for any period during which such member performs frequent and regular operational submarine duty (as defined in paragraph (5)) required by orders.

(3) To be entitled to continuous monthly submarine duty incentive pay through 26 years of service (as computed under section 205 of this title, but excluding, in the case of an officer, periods as an enlisted member before initial appointment as an officer), a member must perform operational submarine duties for at least 6 of the first 12, and at least 10 of the first 18, years of his submarine service. However, if a member performs the prescribed operational submarine duties for at least 8 but less than 10 of the first 18 years of his submarine service, he is entitled to continuous monthly submarine duty incentive pay for the first 22 years of his service (as computed under section 205 of this title, but excluding, in the case of an officer, periods as an enlisted member before initial appointment as an officer).

(4) If upon completion of either 12 or 18 years of submarine service it is determined that a member has failed to perform the minimum prescribed operational submarine duty requirements during the prescribed periods of time, his entitlement to continuous monthly submarine duty incentive pay ceases. If entitlement to continuous monthly submarine duty incentive pay ceases upon completion of 12 years of submarine service, entitlement to that pay may again commence upon completion of 18 years of submarine service if the minimum operational submarine duty requirements have been met, and such pay shall continue for the period of time prescribed in accordance with this section. However, if entitlement to continuous monthly submarine duty incentive pay ceases in the case of any member at the completion of either 12 or 18 years of submarine service or 26 years of service (as computed under section 205 of this title, but excluding, in the case of an officer, periods as an enlisted member before initial appointment as an officer), such member shall be entitled to that pay in the amount prescribed pursuant to subsection (b) for the performance of subsequent operational submarine duty, or for the performance of service as a member of a submarine operational command staff, if such member's duties require serving on a submarine during underway operations.

(5) In this section:

(A) The term "operational submarine duty" means duty—

(i) while attached under competent orders to a submarine, while serving as an operator or crew member of an operational submersible (including an undersea exploration or research vehicle), while undergoing training

preliminary to assignment to a nuclear-powered submarine, while undergoing rehabilitation after assignment to a nuclear-powered submarine, or, in the case of a member qualified in submarines, while attached as a member of a submarine operational command staff whose duties require serving on a submarine during underway operations—

(I) during one calendar month: 48 hours, except that hours served underway in excess of 48 as a member of a submarine operational command staff during any of the immediately preceding five calendar months and not already used to qualify for incentive pay may be applied to satisfy the underway time requirements for the current month;

(II) during any two consecutive calendar months when the requirements of subclause (I) of this clause have not been met: 96 hours; or

(III) during any three consecutive calendar months when the requirements of subclause (II) of this clause have not been met: 144 hours;

(ii) while receiving instruction to prepare for assignment to a submarine of advanced design, or

(iii) while receiving instruction to prepare for a position of increased responsibility on a submarine.

(B) The term "submarine service" means the service performed, under regulations prescribed by the Secretary of the Navy, by a member, and the years of submarine service are computed beginning with the effective date of the initial order to perform submarine service.

(b) MONTHLY RATES.—The Secretary of the Navy shall prescribe the monthly rates of submarine duty incentive pay, except that the maximum monthly rate may not exceed \$1,000.

(c) EXCEPTIONS.—(1) An officer who fails of selection for assignment as an executive officer or commanding officer of a submarine or who declines to serve in either such position may not be paid submarine duty incentive pay except for periods during which the officer is serving on a submarine during underway operations.

(2) An enlisted member may not be paid continuous submarine duty incentive pay while serving ashore between submarine sea duty assignments unless the member has a sufficient period of enlistment (including any extension of an enlistment) remaining to be reassigned to submarine sea duty.

(d) APPLICABILITY TO CERTAIN NAVY RESERVE DUTY.—Under regulations prescribed by the President and to the extent provided for by appropriations, when a member of the Navy Reserve who is entitled to compensation under section 206 of this title, performs, under orders, duty on a submarine during underway operations, he is eligible for an increase in such compensation equal to one-thirtieth of the monthly incentive pay prescribed pursuant to subsection (b) for the performance of that duty by a member of a corresponding grade and years of service who is entitled to basic pay. Such a member is

eligible for the increase for each day served, for as long as he is qualified for it, during each regular period of appropriate duty.

(Added Pub. L. 96-579, §3(d), Dec. 23, 1980, 94 Stat. 3360; amended Pub. L. 97-39, title VII, §701(a), (b), Aug. 14, 1981, 95 Stat. 942; Pub. L. 97-60, title I, §114, Oct. 14, 1981, 95 Stat. 995; Pub. L. 99-145, title VI, §633(a), Nov. 8, 1985, 99 Stat. 646; Pub. L. 100-26, §8(e)(4), Apr. 21, 1987, 101 Stat. 286; Pub. L. 100-180, div. A, title VI, §623(a), (b), Dec. 4, 1987, 101 Stat. 1101; Pub. L. 100-224, §5(a)(2), Dec. 30, 1987, 101 Stat. 1538; Pub. L. 100-456, div. A, title XII, §1233(l)(1), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 101-510, div. A, title XIII, §1322(c)(1), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102-25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title XI, §1111(d)(2), Dec. 5, 1991, 105 Stat. 1492; Pub. L. 107-107, div. A, title VI, §617(a), (b), Dec. 28, 2001, 115 Stat. 1137; Pub. L. 109-163, div. A, title V, §515(d)(1)(D), (2), Jan. 6, 2006, 119 Stat. 3236.)

#### AMENDMENTS

2006—Subsec. (d). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve” in heading and text.

2001—Subsec. (a). Pub. L. 107-107, §617(b)(1), inserted heading and substituted “prescribed pursuant to subsection (b)” for “set forth in subsection (b)” in pars. (1), (2), and (4).

Subsec. (b). Pub. L. 107-107, §617(a), inserted heading and amended text generally, substituting provisions relating to the Secretary’s discretion in prescribing submarine duty incentive pay rates for tables specifying those rates.

Subsec. (c). Pub. L. 107-107, §617(b)(2), inserted heading.

Subsec. (d). Pub. L. 107-107, §617(b)(3), inserted heading and substituted “prescribed pursuant to subsection (b)” for “authorized by subsection (b)”.

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

Subsec. (b). Pub. L. 102-190, in table pertaining to warrant officers, added provisions relating to pay grade W-5 in two places.

1990—Subsec. (e). Pub. L. 101-510 struck out subsec. (e) which read as follows: “The Secretary of Defense shall report to the Congress before January 1 each year—

“(1) the number of enlisted members and officers, by pay grade, who, during the preceding fiscal year, had at least 12 but less than 18 years of submarine service and who were entitled to continuous monthly submarine duty incentive pay under subsection (a) of this section; and

“(2) the number of enlisted members and officers, by pay grade, who, during such fiscal year, had at least 18 years of submarine service and who were entitled to such incentive pay.

The Secretary shall include in each such report the number of enlisted members and the number of officers in each category referred to in the first sentence of this subsection, the number of such officers who, during the fiscal year concerned, were performing operational submarine duties, who were performing submarine command staff duties, and who were not performing submarine duties at all.”

1988—Subsec. (a). Pub. L. 100-456 made clarifying amendment to directory language of Pub. L. 100-180, §623(a). See 1987 Amendment note below.

1987—Subsec. (a)(1), (2). Pub. L. 100-180, §623(a), as amended by Pub. L. 100-456, substituted “naval service” for “Navy”.

Subsec. (a)(5). Pub. L. 100-26 substituted “In this section:” for “For the purposes of this section, the term—

”, inserted “The term” at beginning of subpars. (A) and (B), and substituted “operational” for “Operational” and “submarine” for “Submarine” in subpars. (A) and (B), respectively.

Subsec. (b). Pub. L. 100-224 struck out, preceding table for enlisted members, “(b) The monthly rates for special pay under subsection (a) are as follows:” which had inadvertently been inserted as a second subsec. (b) by Pub. L. 100-180, §623(b).

Pub. L. 100-180, §623(b), amended tables generally so as to reflect an upward adjustment in monthly incentive pay rates for enlisted members, commissioned officers, and warrant officers of all pay grades and years of service encompassed by tables.

1985—Subsec. (b). Pub. L. 99-145 amended table pertaining to commissioned officers generally, so as to reflect an upward adjustment in monthly incentive pay rates for persons in pay grades O-6 through O-3 having over 18, over 20, over 22, and over 26 years of service, respectively.

1981—Subsec. (a)(1). Pub. L. 97-39, §701(a), substituted provisions set forth as cls. (A) to (C) respecting conditions for continuous monthly submarine duty incentive pay for provisions relating to payment of incentive pay for the frequent and regular performance of operational submarine duty required by orders.

Subsec. (a)(2). Pub. L. 97-39, §701(a), substituted provisions relating to payment of submarine duty incentive pay for provisions relating to restrictions on payment of submarine duty incentive pay.

Subsec. (a)(3), (4). Pub. L. 97-60 inserted “, but excluding, in the case of an officer, periods as an enlisted member before initial appointment as an officer” after “(as computed under section 205 of this title” in three places.

Subsec. (a)(5)(A)(i). Pub. L. 97-39, §701(b), inserted provisions relating to service as an operator or crew member of an operational submersible.

#### EFFECTIVE DATE OF 1991 AMENDMENT

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

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-456 applicable as if included in enactment of Pub. L. 100-180, see section 1233(l)(5) of Pub. L. 100-456, set out as a note under section 2366 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Section 623(c) of Pub. L. 100-180 provided that: “(1) Subject to paragraph (2), the amendments made by this section [amending this section] shall take effect on the first day of the first month beginning after the date of the enactment of this Act [Dec. 4, 1987] and shall apply only with respect to duty performed on or after that date.

“(2) The amendments made by this section shall take effect only if legislation as described in section 3(c) is enacted [section 3(c) of Pub. L. 100-180, which is not classified to the Code].”

#### EFFECTIVE DATE OF 1985 AMENDMENT

Section 633(b) of Pub. L. 99-145 provided that: “The amendment made by this section [amending this section] shall take effect on October 1, 1985.”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Section 701(c) of Pub. L. 97-39 provided that: “The amendments made by this section [amending this section] shall take effect as of January 1, 1981.”

#### EFFECTIVE DATE

Section 3(g) of Pub. L. 96-579 provided: “The amendments made by this subsection [probably means section 3 of Pub. L. 96-579, which enacted this section and

amended sections 301 and 308 of this title] shall become effective on the first day of the first month following the month in which this Act is enacted [December, 1980].”

#### DELEGATION OF FUNCTIONS

For delegation of authority under this section to Secretaries of Defense, Commerce, Health and Human Services, and Homeland Security when Coast Guard not serving as part of Navy, see section 1 of Ex. Ord. No. 13294, Mar. 28, 2003, 68 F.R. 15919, set out as a note under section 301 of this title.

#### TRANSITION PROVISIONS

Pub. L. 107–107, div. A, title VI, §617(c), Dec. 28, 2001, 115 Stat. 1137, provided that: “The tables set forth in subsection (b) of section 301c of title 37, United States Code, as in effect on the day before the date of the enactment of this Act [Dec. 28, 2001], shall continue to apply until the later of the following:

“(1) January 1, 2002.

“(2) The date on which the Secretary of the Navy prescribes new submarine duty incentive pay rates as authorized by the amendment made by subsection (a) [amending this section].”

#### § 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 \$75,000 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) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.

(Added Pub. L. 101–510, div. A, title VI, §611(a)(1), Nov. 5, 1990, 104 Stat. 1576; amended Pub. L. 102–484, div. A, title X, §1054(a)(2), Oct. 23, 1992, 106 Stat. 2502; Pub. L. 107–314, div. A, title VI, §615(a), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 109–163, div. A, title VI, §687(b)(2), Jan. 6, 2006, 119 Stat. 3327; Pub. L. 110–181, div. A, title VI, §615(b), Jan. 28, 2008, 122 Stat. 150.)

#### AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110–181 substituted “\$75,000” for “\$50,000”.

2006—Subsec. (c). Pub. L. 109–163 amended heading and text of subsec. (c) generally, substituting provisions referring to repayment provisions of section 303a(e) for specific provisions relating to refunds required when officer fails to complete total period of active duty.

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

1992—Subsec. (c)(2). Pub. L. 102–484, §1054(a)(2)(A), substituted “owed” for “owned”.

Subsec. (c)(3). Pub. L. 102–484, §1054(a)(2)(B), substituted “November 5, 1990” for “the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991”.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VI, §615(c), Jan. 28, 2008, 122 Stat. 150, provided that: “The amendments made by this section [amending this section and section 302 of this title] shall apply with respect to agreements entered into under section 301d(a) or 302b(c) of title 37, United States Code, on or after the date of the enactment of this Act [Jan. 28, 2008].”

#### SAVINGS PROVISION

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

#### APPLICATION OF INCREASE

Pub. L. 107–314, div. A, title VI, §615(i), Dec. 2, 2002, 116 Stat. 2569, provided that: “In the case of an amendment made by this section [amending sections 301d, 301e, 302, 302a, 302d, 302e, and 302i of this title and section 2130a of Title 10, Armed Forces] to increase the maximum amount of a special pay or bonus that may be paid during any 12-month period, the amended limitation shall apply to 12-month periods beginning after September 30, 2002.”

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

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

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

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

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

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

“(2) A written agreement referred to in section 301d of title 37, United States Code, that was entered into on or after April 10, 1991, and before the date of the 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