

**TITLE 37 - PAY AND ALLOWANCES OF THE UNIFORMED SERVICES  
CHAPTER 5 - SPECIAL AND INCENTIVE PAYS  
SUBCHAPTER I - EXISTING SPECIAL PAY, INCENTIVE PAY, AND BONUS  
AUTHORITIES**

**§ 312. Special pay: nuclear-qualified officers extending period of active service**

(a) **Special Pay Authorized; Eligibility.**— Under regulations to be prescribed by the Secretary of the Navy, the Secretary may pay special pay under subsection (b) to 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 not less than three years, so long as the new period of obligated active service does not extend beyond the end of 30 years of commissioned service, in addition to any other period of obligated active service.

(b) **Payment Amount; Payment Options.**—

- (1) The total amount paid to an officer under an agreement under subsection (a) or (e)(1) may not exceed \$30,000 for each year of the active-service agreement. Amounts paid under the agreement are in addition to all other compensation to which the officer is entitled.
- (2) The Secretary 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.
- (3) Upon acceptance of an agreement under subsection (a) or (e)(1) by the Secretary, the total amount payable shall be paid in a single lump-sum or in annual installments of equal or different amounts over the length of the contract, commencing at the expiration of any existing period of obligated active service.
- (4) The Secretary 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, and, if the special pay will be paid in annual installments, the number of installments may not exceed the number of years covered by the agreement plus one.

(c) **Repayment.**— An officer who does not complete the period of active duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants that the officer agreed to serve, and for which a payment was made under subsection (b) or (e)(1), shall be subject to the repayment provisions of section 303a (e) of this title.

(d) **Relation to Service Obligation.**— 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.

(e) **New Agreement.**—

- (1) An officer who is performing obligated service under an agreement under subsection (a) may, if the amount that may be paid under subsection (b) is higher than at the time the officer executed such agreement, execute a new agreement under this 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 maximum number of years of commissioned service authorized by subsection (a)(3). 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.

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(2) This subsection shall be carried out under regulations prescribed by the Secretary of the Navy.

**(f) Duration of Authority.**— The provisions of this section shall be effective only in the case of officers who, on or before December 31, 2009, execute the required written agreement to remain in active service.

(Added Pub. L. 91–20, § 1(1), June 3, 1969, 83 Stat. 12; amended Pub. L. 92–581, § 1(1), (2), Oct. 27, 1972, 86 Stat. 1277; Pub. L. 94–356, § 2, July 12, 1976, 90 Stat. 901; Pub. L. 96–513, title V, § 516(8), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96–579, § 2(a), Dec. 23, 1980, 94 Stat. 3359; Pub. L. 99–145, title VI, § 632(a), Nov. 8, 1985, 99 Stat. 643; Pub. L. 101–189, div. A, title VI, § 614(a), Nov. 29, 1989, 103 Stat. 1446; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103–337, div. A, title VI, § 613(g), Oct. 5, 1994, 108 Stat. 2783; Pub. L. 104–106, div. A, title VI, § 613(e), Feb. 10, 1996, 110 Stat. 360; Pub. L. 104–201, div. A, title VI, § 613(d), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105–85, div. A, title VI, §§ 613(d), 624 (a), Nov. 18, 1997, 111 Stat. 1786, 1793; Pub. L. 105–261, div. A, title VI, § 613(d), Oct. 17, 1998, 112 Stat. 2039; Pub. L. 106–65, div. A, title VI, §§ 613(e), 624 (a), Oct. 5, 1999, 113 Stat. 650, 654; Pub. L. 106–398, § 1 [[div. A], title VI, § 623(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–152; Pub. L. 107–107, div. A, title VI, § 613(a), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 107–314, div. A, title VI, § 613(a), Dec. 2, 2002, 116 Stat. 2568; Pub. L. 108–136, div. A, title VI, § 613(a), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108–375, div. A, title VI, § 613(a), Oct. 28, 2004, 118 Stat. 1947; Pub. L. 109–163, div. A, title VI, §§ 623(a), 637, 687 (b)(21), Jan. 6, 2006, 119 Stat. 3294, 3301, 3331; Pub. L. 109–364, div. A, title VI, §§ 613(a), 618, Oct. 17, 2006, 120 Stat. 2248, 2251; Pub. L. 110–181, div. A, title VI, §§ 613(a), 621 (a), Jan. 28, 2008, 122 Stat. 149, 151; Pub. L. 110–417, [div. A], title VI, §§ 613(a), 617, Oct. 14, 2008, 122 Stat. 4485, 4486.)

## Amendments

2008—Subsec. (a)(3). Pub. L. 110–417, § 617, substituted “not less than three years” for “three, four, or five years”.

Pub. L. 110–181, § 621(a)(1), substituted “30 years” for “26 years”.

Subsec. (e)(1). Pub. L. 110–181, § 621(a)(2), substituted “the maximum number of years of commissioned service authorized by subsection (a)(3)” for “the end of 26 years of commissioned service”.

Subsec. (f). Pub. L. 110–417, § 613(a), substituted “December 31, 2009” for “December 31, 2008”.

Pub. L. 110–181, § 613(a), substituted “December 31, 2008” for “December 31, 2007”.

2006—Subsec. (a). Pub. L. 109–364, § 618(c)(1), inserted heading.

Pub. L. 109–364, § 618(b)(2)(C), designated concluding provisions as subsec. (b).

Pub. L. 109–364, § 618(b)(2)(A), substituted “the Secretary may pay special pay under subsection (b) to an officer” for “an officer” in introductory provisions.

Pub. L. 109–364, § 618(a), in concluding provisions, substituted “in a single lump-sum or in annual installments of equal or different amounts” for “in equal annual installments” and “and, if the special pay will be paid in annual installments, the number of installments may not exceed the number of years covered by the agreement plus one” for “with the number of installments being equal to the number of years covered by the contract plus one”.

Pub. L. 109–163, § 637, substituted “\$30,000” for “\$25,000” in concluding provisions.

Subsec. (a)(3). Pub. L. 109–364, § 618(b)(2)(B), substituted period for comma at end.

Subsec. (b). Pub. L. 109–364, § 618(b)(1), (2)(C)–(E), designated concluding provisions of subsec. (a) as (b), inserted heading, and substituted “(1) The total amount paid to an officer under an agreement under subsection (a) or (e)(1) may not exceed \$30,000 for each year of the active-service agreement. Amounts paid under the agreement are in addition to all other compensation to which the officer is entitled.” for “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 \$30,000 for each year of the active-service agreement.”, “(2) The Secretary shall” for “The Secretary of the Navy shall”, “(3) Upon acceptance of an agreement under subsection (a) or (e)(1) by the Secretary” for “Upon acceptance of the agreement by the Secretary or his designee”, and “(4) The Secretary” for “The Secretary (or his designee)”. Former subsec. (b) redesignated (c).

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Pub. L. 109–163, § 687(b)(21), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “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.”

Subsec. (c). Pub. L. 109–364, § 618(b)(1), (3), (c)(2), redesignated subsec. (b) as (c), inserted heading, and substituted “subsection (b) or (e)(1)” for “subsection (a) or subsection (d)(1)”. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109–364, § 618(b)(1), (c)(3), redesignated subsec. (c) as (d) and inserted heading. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109–364, § 618(b)(1), (c)(4), redesignated subsec. (d) as (e) and inserted heading. Former subsec. (e) redesignated (f).

Pub. L. 109–364, § 613(a), substituted “December 31, 2007” for “December 31, 2006”.

Pub. L. 109–163, § 623(a), substituted “December 31, 2006” for “December 31, 2005”.

Subsec. (e)(1). Pub. L. 109–364, § 618(b)(4), in first sentence, substituted “subsection (b)” for “such subsection” and “this subsection” for “that subsection”.

Subsec. (f). Pub. L. 109–364, § 618(b)(1), (c)(5), redesignated subsec. (e) as (f) and inserted heading.

2004—Subsec. (e). Pub. L. 108–375 substituted “December 31, 2005” for “December 31, 2004”.

2003—Subsec. (e). Pub. L. 108–136 substituted “December 31, 2004” for “December 31, 2003”.

2002—Subsec. (e). Pub. L. 107–314 substituted “December 31, 2003” for “December 31, 2002”.

2001—Subsec. (e). Pub. L. 107–107 substituted “December 31, 2002” for “December 31, 2001”.

2000—Subsec. (e). Pub. L. 106–398 substituted “December 31, 2001” for “December 31, 2000”.

1999—Subsec. (a). Pub. L. 106–65, § 624(a), substituted “\$25,000” for “\$15,000” in concluding provisions.

Subsec. (e). Pub. L. 106–65, § 613(e), substituted “December 31, 2000” for “December 31, 1999”.

1998—Subsec. (e). Pub. L. 105–261 substituted “December 31, 1999” for “September 30, 1999”.

1997—Subsec. (a). Pub. L. 105–85, § 624(a), substituted “\$15,000” for “\$12,000” in concluding provisions.

Subsec. (e). Pub. L. 105–85, § 613(d), substituted “September 30, 1999” for “September 30, 1998”.

1996—Subsec. (e). Pub. L. 104–201 substituted “September 30, 1998” for “September 30, 1997”.

Pub. L. 104–106 substituted “September 30, 1997” for “September 30, 1996”.

1994—Subsec. (e). Pub. L. 103–337 substituted “September 30, 1996” for “September 30, 1995”.

1991—Subsec. (d)(1). Pub. L. 102–25 struck out “of this section” after “subsection (a)”.

1989—Subsec. (e). Pub. L. 101–189 substituted “September 30, 1995” for “September 30, 1990”.

1985—Subsec. (a). Pub. L. 99–145, § 632(a)(1)(D), in provisions following numbered clauses, substituted “\$12,000” for “\$7,000”, “annually” for “semiannually”, “12-month period” for “six-month period”, and “shall be paid in equal annual installments over the length of the contract, commencing at the expiration of any existing period of obligated active service. The Secretary (or his designee) may accept an active service agreement under this section not more than one year in advance of the end of an officer’s existing period of obligated active service under such an agreement. In such a case, the amount of the special pay may be paid commencing with the date of acceptance of the agreement, with the number of installments being equal to the number of years covered by the contract plus one” for “shall become fixed and shall be paid in four equal yearly installments, commencing at the expiration of the initial obligated service; except, the Secretary or his designee may accept the active-service agreement not more than one year in advance of the expiration of the initial obligated active service and the amount may then be paid in five yearly installments, not to exceed \$5,600 per year, commencing with the date of acceptance of the agreement”.

Subsec. (a)(2) to (4). Pub. L. 99–145, § 632(a)(1)(A)–(C), inserted “and” at end of cl. (2), redesignated cl. (4) as (3) and substituted “for a period of three, four, or five years, so long as the new period of obligated active service does not extend beyond the end of 26 years of commissioned service,” for “for one period of four years”, and struck out former cl. (3) which related to an officer of the naval service who had not completed ten years of commissioned service.

Subsec. (b). Pub. L. 99–145, § 632(a)(2), (3), redesignated subsec. (c) as (b), struck out “of four years” after “complete the full period”, and struck out former subsec. (b) which provided that no more than one agreement for each officer would be accepted under this section.

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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 2008 Amendment**

Amendment by section 613(a) of Pub. L. 110–181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110–181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

### **Effective Date of 1999 Amendment**

Pub. L. 106–65, div. A, title VI, § 624(d)(1), Oct. 5, 1999, 113 Stat. 654, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 312b of this title] shall take effect on October 1, 1999, and shall apply to agreements under section 312 or 312b of such title entered into on or after that date.”

### **Effective Date of 1997 Amendment**

Section 624(d) of Pub. L. 105–85 provided that:

“(1) The amendments made by this section [amending this section and sections 312b and 312c of this title] shall take effect as of October 1, 1997.

“(2) The amendments made by subsections (a) and (b) [amending this section and section 312b of this title] shall apply with respect to agreements accepted under sections 312 (a) and 312b (a), respectively, of title 37, United States Code, on or after October 1, 1997.”

### **Effective Date of 1985 Amendment**

Section 632(d) of Pub. L. 99–145 provided that: “The amendments made by this section [amending this section and sections 312b and 312c of this title] shall take effect on October 1, 1985.”

### **Effective Date of 1980 Amendments**

Section 2(d)(1) of Pub. L. 96–579 provided: “The amendments made by subsection (a)(1) [amending this section] shall apply only with respect to active-duty agreements under section 312 of title 37, United States Code, executed on or after the first day of the first month following the month in which this section is enacted [Dec. 1980].”

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

### **Effective Date of 1976 Amendment**

Section 5 of Pub. L. 94–356 provided that: “This Act [enacting section 312b of this title, amending this section, and enacting provisions set out as notes under this section and section 301 of this title] becomes effective on the first day of the first month after enactment [Aug. 1, 1976], except that section 312c of title 37, United States Code, as added by this Act, is effective as of October 1, 1975.”

### **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.

### **Effect of Amendment by Pub. L. 110–181 on Existing Agreements**

Pub. L. 110–181, div. A, title VI, § 621(b), Jan. 28, 2008, 122 Stat. 152, provided that: “The Secretary of the Navy and an officer of the naval service who is a party to an agreement under section 312 of title 37, United States Code, that was entered into before the date of the enactment of this Act [Jan. 28, 2008] may revise the agreement to reflect the new limitation on the number of years of commissioned service that the officer may serve while remaining eligible for special pay under such section.”

### **Active Service Agreements for Nuclear Qualified Officers**

Pub. L. 97–60, title I, § 118, Oct. 14, 1981, 95 Stat. 997, provided that: “Notwithstanding subsections (a) and (b) of section 312 of title 37, United States Code, and under regulations prescribed by the Secretary of the Navy, the Secretary of the Navy may permit an officer of the naval service who is performing obligated service as the result of an active-service agreement executed under such section before January 1, 1981, to cancel that active-service agreement effective on the day before an anniversary of the day on which that agreement was executed and execute a new active-service agreement under such section for one period of four years. Any such cancellation of an existing agreement and execution of a new agreement may be effective on the day before an anniversary date occurring on or after January 1, 1981.”

### **Exchange of Active Service Agreements by Naval Officers**

Section 4 of Pub. L. 94–356 provided that: “Notwithstanding any other provision of this Act [enacting section 312b and 312c of this title, amending this section, and enacting provisions set out as notes under this section and section 301 of this title] or any other provision of law, and under regulations prescribed by the Secretary of the Navy, an officer of the naval service who, on or after the effective date of this Act [see Effective Date of 1976 Amendment above], is, or will be, performing obligated service as the result of an active service agreement executed in accordance with section 312 of title 37, United States Code as it existed at any time before the effective date of this Act, may be permitted—

“(1) as of the last day of the first year of that obligated service, to cancel that active service agreement in exchange for a new active service agreement in accordance with section 312 of title 37, as amended by this Act; or

“(2) as of the last day of any year, other than the last year, of that obligated service, to cancel that active service agreement in exchange for eligibility for the annual bonus authorized by section 312c of title 37, as added by this Act, and an agreement to remain on active duty for a period of time equal to the period of obligated service remaining under that active service agreement.”