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HEARINGS
ON
H.R. 6966
UNIFORMED SERVICES HEALTH PROFESSIONALS SPECIAL PAY ACT OF 1980
BEFORE THE
MILITARY COMPENSATION SUBCOMMITTEE
OF THE
COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES
NINETY-SIXTH CONGRESS
SECOND SESSION

MARCH 31 AND JUNE 19, 1980



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(II)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
MILITARY COMPENSATION SUBCOMMITTEE,
Washington, D.C., Monday, March 31, 1980.

The subcommittee met, pursuant to notice, at 2 p.m., in room 2216, Rayburn House Office Building, Hon. Bill Nichols (chairman of the subcommittee) presiding.

Mr. NICHOLS. The subcommittee will come to order.

We are meeting today to discuss military health professionals' pay. As you know, the President's veto of H.R. 5235, a bill to restructure the special pays for military health professionals, has left me in a serious quandary as to how to proceed from this point forward. I strongly believe that H.R. 5235 was the best possible bill that could have been developed to address the severe shortages in the uniformed services health professions that we face today.

Based on our extensive subcommittee hearings, we developed this bill in response to the information we received regarding the current status of uniformed services health care providers and the expected requirements for these providers in the future. A review of the committee report indicates the depth of our considerations.

The administration objected to the inclusion of special pays for commissioned officers of the Public Health Service, yet these health professionals receive identical pay and allowances to their counterparts in the Armed Forces, and they have been afforded the same special pays since those pays were originally implemented. These uniformed health professionals serve with the Coast Guard; they staff Public Health Service facilities, which are utilized by our dependent population; and in the past they have served during periods of national emergency alongside Armed Forces physicians. These uniformed health professionals provide many other services of extreme value to our society. The subcommittee found no reason to separate the pays received by these health professional from the pay received by their military counterparts.

I believe the shortages we face with regard to military physicians are well documented and agreed to. The need is pressing for immediate action.

Based on the information that the subcommittee obtained during its deliberations, there is a 10 percent shortage of dental officers. Although the shortage is not as large when measured against authorizations, when real requirements, as stated by the military departments, are considered the shortage, in my view, requires a change to the current special pay system.

Similarly, although the authorized strength for military optometrists indicates a minor problem, when the real requirements are considered, a shortfall of approximately 19 percent is apparent. This shortage, again in my view, requires some action to be taken with regard to their special pays.

Finally, the special pay we recommended for podiatrists was developed based on expected future shortages resulting from the growth of civilian residency programs. Presently, the military services are attractive to podiatrists because of the opportunity to obtain advanced clinical experience.

I continue to believe that our bill would have alleviated the real shortages that we face and would have significantly improved uniformed services health care delivery. I find it difficult, based on this knowledge, to assess which areas are less important than others.

Based on correspondence with Dr. John P. White, Deputy Director of the Office of Management and Budget, and based on several personal conversations with him, I have, together with Congressman Mitchell, introduced a bill, H.R. 6966, that I have every reason to believe will be approved by the administration.

The bill provides for a revision to the special pay for military physicians virtually similar to that contained in H.R. 5235 as sent to the President.

All other health professionals—physicians in the Public Health Service, and uniformed services dentists, optometrists and veterinarians—would be continued under the current system of special pays. Authority for those special pays is due to expire on September 30, 1980; the bill would delete that expiration date, thereby providing nonexpiring authorization.

As you know, for the past 12 years, I guess, we have been faced with the problem of renewing expiring authorities in order to take care of these special pays.

The purpose of the hearing today is to consider H.R. 6966. I would, if the members agree, like to report the bill out of the subcommittee today so that we could take it to the full committee tomorrow. There are some significant budget obstacles that must be overcome before we can bring the bill up on the floor; but I believe that it is extremely important to begin anew the process leading to enactment of a pay bill.

[H.R. 6966 is as follows:]

96TH CONGRESS
2D SESSION

H. R. 6966

To amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the Armed Forces and to make permanent the existing special pay provisions for other health professionals in the uniformed services.

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 1980

Mr. NICHOLS (for himself and Mr. MITCHELL of New York) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the Armed Forces and to make permanent the existing special pay provisions for other health professionals in the uniformed services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Uniformed
5 Services Health Professionals Special Pay Act of 1980".

1 REVISION OF SPECIAL PAY FOR MEDICAL OFFICERS OF
2 THE ARMED FORCES

3 SEC. 2. (a) Section 302 of title 37, United States Code,
4 relating to special pay for medical officers of the uniformed
5 services, is amended to read as follows:

6 **"§ 302. Special pay: medical officers of the armed forces**

7 "(a)(1) An officer who is an officer of the Medical Corps
8 of the Army or the Navy or an officer of the Air Force desig-
9 nated as a medical officer and who is on active duty under a
10 call or order to active duty for a period of not less than one
11 year is entitled to special pay in accordance with this
12 subsection.

13 "(2) An officer described in paragraph (1) of this subsec-
14 tion who is serving in a pay grade below pay grade O-7 is
15 entitled to variable special pay at the following rates:

16 "(A) \$1,200 per year, if the officer is undergoing
17 medical internship training, as determined under regu-
18 lations prescribed under section 303a(a) of this title.

19 "(B) \$5,000 per year, if the officer has less than
20 six years of creditable service and is not undergoing
21 medical internship training, as determined under regu-
22 lations prescribed under section 303a(a) of this title.

23 "(C) \$10,000 per year, if the officer has at least
24 six but less than eight years of creditable service.

1 “(D) \$9,500 per year, if the officer has at least
2 eight but less than ten years of creditable service.

3 “(E) \$9,000 per year, if the officer has at least
4 ten but less than twelve years of creditable service.

5 “(F) \$8,000 per year, if the officer has at least
6 twelve but less than fourteen years of creditable
7 service.

8 “(G) \$7,000 per year, if the officer has at least
9 fourteen but less than eighteen years of creditable
10 service.

11 “(H) \$6,000 per year, if the officer has at least
12 eighteen but less than twenty-two years of creditable
13 service.

14 “(I) \$5,000 per year, if the officer has twenty-two
15 or more years of creditable service.

16 “(3) An officer described in paragraph (1) of this subsec-
17 tion who is serving in a pay grade above pay grade O-6 is
18 entitled to variable special pay at the rate of \$1,000 per
19 year.

20 “(4)(A) Subject to subsection (c) of this section, an offi-
21 cer entitled to variable special pay under paragraph (2) or (3)
22 of this subsection who has less than ten years of creditable
23 service is entitled to additional special pay of \$9,000 for any
24 twelve-month period during which the officer is not undergo-
25 ing medical internship or initial residency training, as deter-

1 mined under regulations prescribed under section 303a(a) of
2 this title.

3 “(B) Subject to subsection (c) of this section, an officer
4 entitled to variable special pay under paragraph (2) or (3) of
5 this subsection who has ten or more years of creditable serv-
6 ice is entitled to additional special pay of \$10,000 for any
7 twelve-month period during which the officer is not undergo-
8 ing medical internship or initial residency training, as deter-
9 mined under regulations prescribed under section 303a(a) of
10 this title.

11 “(5) An officer who is entitled to variable special pay
12 under paragraph (2) or (3) of this subsection who is board
13 certified, as determined under regulations prescribed under
14 section 303a(a) of this title, is entitled to additional special
15 pay at the following rates:

16 “(A) \$2,000 per year, if the officer has less than
17 ten years of creditable service.

18 “(B) \$2,500 per year, if the officer has at least
19 ten but less than twelve years of creditable service.

20 “(C) \$3,000 per year, if the officer has at least
21 twelve but less than fourteen years of creditable
22 service.

23 “(D) \$4,000 per year, if the officer has at least
24 fourteen but less than eighteen years of creditable
25 service.

1 “(E) \$5,000 per year, if the officer has eighteen
2 or more years of creditable service.

3 “(b)(1) Subject to subsection (c) of this section and para-
4 graph (2) of this subsection and under regulations prescribed
5 under section 303a(a) of this title, an officer who is entitled to
6 variable special pay under subsection (a)(2) of this section
7 may be paid incentive special pay in an amount not to exceed
8 \$8,000 for any twelve-month period during which the officer
9 is not undergoing medical internship or initial residency
10 training, as determined under regulations prescribed under
11 section 303a(a) of this title.

12 “(2) An officer is not eligible for incentive special pay
13 under paragraph (1) of this subsection unless the Secretary
14 concerned has determined that such officer is qualified in the
15 medical profession.

16 “(3) The amount that may be paid for incentive special
17 pay under this subsection in any fiscal year may not exceed
18 an amount equal to 6 per centum of the total amount paid in
19 such year for special pay under subsection (a) of this section
20 and paragraph (1) of this subsection.

21 “(c)(1) An officer may not be paid additional special pay
22 under subsection (a)(4) of this section or incentive special pay
23 under subsection (b) of this section for any twelve-month
24 period unless the officer first executes a written agreement
25 under which the officer agrees to remain on active duty for a

1 period of not less than one year beginning on the date the
2 officer accepts the award of such special pay.

3 “(2) Under regulations prescribed by the Secretary of
4 Defense under section 303a(a) of this title, the Secretary of
5 the military department concerned may terminate at any time
6 an officer’s entitlement to the special pay authorized by sub-
7 section (a)(4) or (b)(1) of this section. If such entitlement is
8 terminated, the officer concerned is entitled to be paid such
9 special pay only for the part of the period of active duty that
10 he served, and he may be required to refund any amount in
11 excess of that entitlement.

12 “(d) Regulations prescribed by the Secretary of Defense
13 under section 303a(a) of this title shall include standards for
14 determining—

15 “(1) whether an officer is undergoing medical in-
16 ternship or initial residency training for purposes of
17 subsections (a)(2)(A), (a)(2)(B), (a)(4), and (b)(1) of this
18 section; and

19 “(2) whether an officer is board certified for pur-
20 poses of subsection (a)(5) of this section.

21 “(e) Special pay payable to an officer under paragraphs
22 (2), (3), and (5) of subsection (a) of this section shall be paid
23 monthly. Special pay payable to an officer under subsection
24 (a)(4) or (b)(1) of this section shall be paid annually at the

1 beginning of the twelve-month period for which the officer is
2 entitled to such payment.

3 “(f) An officer who voluntarily terminates service on
4 active duty before the end of the period for which a payment
5 was made to such officer under subsection (a)(4) or (b)(1) of
6 this section shall refund to the United States an amount
7 which bears the same ratio to the amount paid to such officer
8 as the unserved part of such period bears to the total period
9 for which the payment was made.

10 “(g) For purposes of this section, creditable service of an
11 officer is computed by adding—

12 “(1) all periods which the officer spent in medical
13 internship or residency training during which the offi-
14 cer was not on active duty; and

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

19 (b) The item relating to such section in the table of sec-
20 tions at the beginning of chapter 5 of such title is amended to
21 read as follows:

“302. Special pay: medical officers of the armed forces.”.

1 PERMANENT AUTHORITY FOR SPECIAL PAY FOR MEDICAL
2 OFFICERS OF THE PUBLIC HEALTH SERVICE

3 SEC. 3. (a)(1) Chapter 5 of such title is amended by
4 inserting after section 302b the following new section:

5 **"§ 302c. Special pay: medical officers of the Public Health**
6 **Service**

7 "A medical officer of the Public Health Service who is
8 on active duty for a period of at least one year is entitled to
9 special pay at the following rates:

10 "(1) \$100 a month for each month of active duty
11 if the officer has not completed two years of active
12 duty as an officer of the Medical Corps of the Army or
13 Navy, as an officer of the Air Force designated as a
14 medical officer, or as a medical officer of the Public
15 Health Service.

16 "(2) \$350 a month for each month of active duty
17 if the officer has completed at least two years of active
18 duty as an officer of the Medical Corps of the Army or
19 Navy, as an officer of the Air Force designated as a
20 medical officer, or as a medical officer of the Public
21 Health Service."

22 (2) The table of sections at the beginning of such chap-
23 ter is amended by inserting after the item relating to section
24 302b the following new item:

"302c. Special pay: medical officers of the Public Health Service."

1 (b)(1) Subsection (a) of section 313 of such title, relating
2 to special pay for medical officers who execute active duty
3 agreements, is amended—

4 (A) by striking out “Secretary of Defense” and all
5 that follows in such subsection through “Public Health
6 Service,” and inserting in lieu thereof “Secretary of
7 Health and Human Services (hereinafter in this section
8 referred to as the ‘Secretary’) and approved by the
9 President, a medical officer of the Public Health Serv-
10 ice”; and

11 (B) by striking out “Secretary concerned” each
12 place it appears in such subsection and inserting in lieu
13 thereof “Secretary”.

14 (2) Subsection (b) of such section is amended by striking
15 out “Secretary of Defense, the Secretary concerned” and in-
16 serting in lieu thereof “Secretary, the Secretary”.

17 (3) Subsection (c) of such section is amended by striking
18 out “by the Secretary of Defense or by the Secretary of
19 Health, Education, and Welfare, as appropriate,” and insert-
20 ing in lieu thereof “by the Secretary”.

21 (4) Subsection (e) of such section is amended—

22 (A) by striking out “The Secretary” and all that
23 follows in such subsection through “each year” the
24 first place it appears and inserting in lieu thereof “Not

1 later than July 31 of each year, the Secretary shall
2 submit a written report"; and

3 (B) by striking out the third sentence in such sub-
4 section.

5 (5) The heading of such section is amended to read as
6 follows:

7 **"§ 313. Special pay: medical officers of the Public Health**
8 **Service who execute active duty agreements".**

9 (6) The item relating to such section in the table of sec-
10 tions at the beginning of chapter 5 of such title is amended to
11 read as follows:

"313. Special pay: medical officers of the Public Health Service who execute active
duty agreements.".

12 **PERMANENT AUTHORITY FOR SPECIAL PAY FOR OPTOM-**
13 **ETRISTS, DENTISTS, AND VETERINARIANS IN THE**
14 **UNIFORMED SERVICES AND FOR CONTINUATION PAY**
15 **FOR DENTISTS IN THE ARMED FORCES AND PHYSI-**
16 **CIANs AND DENTISTS IN THE PUBLIC HEALTH**
17 **SERVICE**

18 **SEC. 4. (a) Section 302a of title 37, United States Code,**
19 **relating to special pay for optometrists, is amended—**

20 (1) by striking out "In addition to any other basic
21 pay, special pay, incentive pay, or allowances to which
22 he is entitled, each" in subsection (a) and inserting in
23 lieu thereof "Each"; and

24 (2) by striking out subsections (b) and (c).

1 (b) Section 302b of such title, relating to special pay for
2 dentists, is amended—

3 (1) by striking out “, in addition to any other pay
4 or allowances to which he is entitled,”; and

5 (2) by striking out the last sentence of such sec-
6 tion.

7 (c) Section 303 of such title, relating to special pay for
8 veterinarians, is amended—

9 (1) by striking out “In addition to any other basic
10 pay, special pay, incentive pay or allowances to which
11 he is entitled, each” in subsection (a) and inserting in
12 lieu thereof “Each”; and

13 (2) by striking out subsections (b) and (c).

14 (d)(1) Subsection (a) of section 311 of such title, relating
15 to continuation pay for physicians and dentists who extend
16 their service on active duty, is amended by striking out “an
17 officer of the Army” the first place it appears and all that
18 follows in such subsection through “June 1, 1974,” the
19 second place it appears.

20 (2) Subsection (c) of such section is amended by striking
21 out “beginning with the calendar year 1968,”.

22 (3) The heading of such section is amended to read as
23 follows:

1 **"§ 311. Special pay: continuation pay for dentists in the**
 2 **armed forces and physicians and dentists in**
 3 **the Public Health Service".**

4 (4) The item relating to such section in the table of sec-
 5 tions at the beginning of chapter 5 of such title is amended to
 6 read as follows:

 "311. Special pay: continuation pay for dentists in the armed forces and physicians
 and dentists in the Public Health Service."

7 (e) Section 2 of the Act entitled "An Act to amend
 8 chapter 5 of title 37, United States Code, to revise the spe-
 9 cial pay structure relating to medical officers of the uniformed
 10 services", approved May 6, 1974 (37 U.S.C. 302 note), is
 11 repealed.

12 **GENERAL PROVISIONS RELATING TO HEALTH**

13 **PROFESSIONALS**

14 SEC. 5. (a) Chapter 5 of title 37, United States Code, is
 15 amended by inserting after section 303 the following new
 16 section:

17 **"§ 303a. Special pay: health professionals; general provi-**
 18 **sions**

19 "(a) The Secretary of Defense, with respect to the
 20 Army, Navy, and Air Force, and the Secretary of Health and
 21 Human Services, with respect to the Public Health Service,
 22 shall prescribe regulations for the administration of sections
 23 302, 302a, 302b, 302c, 303, 311, and 313 of this title.

1 “(b) Special pay authorized under sections 302, 302a,
 2 302b, 302c, and 303 of this title is in addition to any other
 3 pay or allowance to which an officer is entitled. The amount
 4 of special pay to which an officer is entitled under any of such
 5 sections may not be included in computing the amount of any
 6 increase in pay authorized by any other provision of this title
 7 or in computing retired pay, severance pay, or readjustment
 8 pay.

9 “(c) The Secretary of Defense shall conduct a review
 10 every two years of the special pay for health professionals
 11 authorized by sections 302, 302a, 302b, 303, and 311 of this
 12 title. A report shall be submitted to the Congress not later
 13 than September 30, 1982, of the results of the first such
 14 review, and a report shall be submitted to the Congress not
 15 later than September 30 of each second year thereafter on
 16 the results of the review for the preceding two-year period.”.

17 (b) The table of sections at the beginning of such chap-
 18 ter is amended by inserting after the item relating to section
 19 303 the following new item:

“303a. Special pay: health professionals; general provisions.”.

20

TECHNICAL AMENDMENT

21 SEC. 6. Section 306(e) of title 37, United States Code,
 22 relating to exclusions from special pay for officers holding
 23 positions of unusual responsibility, is amended by striking out

1 "302 or 303" and inserting in lieu thereof "302, 302a, 302b,
2 or 303".

TRANSITION PROVISIONS

4 SEC. 7. Notwithstanding any provision of the amend-
5 ments made by this Act, and in accordance with regulations
6 to be prescribed by the Secretary of Defense, any officer of
7 the Army, Navy, or Air Force who at any time before the
8 effective date of the amendments made by this Act was enti-
9 tled to special pay under section 302 of title 37, United
10 States Code, and any officer who after such effective date
11 would have become entitled to special pay under such section
12 (as in effect on the day before such effective date) had such
13 section continued in effect, shall be paid basic pay and special
14 pay under section 302 of such title (as in effect on and after
15 the effective date of the amendments made by this Act) in a
16 total amount not less than the total amount of the basic pay
17 (as in effect on the day before such date) and special pay
18 applicable (or which would have been applicable) to such offi-
19 cer under sections 302, 311, and 313 of such title (as in
20 effect on the day before such date and computed on the rates
21 of basic pay as in effect on the day before such date).

EFFECTIVE DATE

23 SEC. 8. The amendments made by section 2 shall apply
24 to special pay payable for periods beginning after the last day
25 of the month in which this Act is enacted.

Mr. NICHOLS. Although the President vetoed H.R. 5235, our witness today, Mr. Vernon McKenzie, Principal Deputy Assistant Secretary of Defense for Health Affairs, has been one of the foremost supporters of that bill. He was instrumental in the development and progress of that bill, and as all members of this subcommittee are aware, and as I can assure the military health professionals in the field whatever bill is finally signed by the President will have been, in large part, attained through the untiring efforts of this gentleman. I have asked Mr. McKenzie to present formally today the administration's position on H.R. 6966.

Before you begin, I would like to recognize Mr. Mitchell for any comments that he would like to make with reference to this matter.

STATEMENT OF HON. DONALD J. MITCHELL, A REPRESENTATIVE FROM NEW YORK

Mr. MITCHELL. Thank you, Mr. Chairman.

I intend to support H.R. 6966 but with the greatest reluctance. I am going to support it because I see it is the only game in town. I am extremely disappointed with the President's veto. I think it demonstrates gross misunderstanding of the problem of the shortage of health professionals. I think it represents a plan for false economy.

I am convinced the administration, whoever advises the President, doesn't understand the severity of the health professional shortage. But I am convinced because they don't understand it they are not going to reconsider a slightly modified version of our original bill.

I think we have to recognize time is running short. We discussed the possibility of introducing a new bill with just the armed services health professionals intact and cutting away the Public Health Service practitioners. But after discussion and correspondence and conversations we arrived at the conclusion that probably that version would be vetoed also, and because of the shortage of time, we would end up with nothing.

We have to send something to the health practitioners to let them know we are concerned and we are doing our best to solve the problem. I think we have to take as big a bite out of the apple as possible. The bill we have before us is as big as we can do at this time. I would like to think of today's program as just phase 1 of a sorely needed two-part program. I plan to introduce—and I am sure the chairman will be interested in this also—phase 2, next session, which will include all the benefits to all the health practitioners that were eliminated by this shortsightedness of the President's veto this year.

I am hopeful next year's President, whoever that may be, will understand the problem and will look favorably on extending the original doctors' pay bill, H.R. 5235, to the remaining practitioners in the armed services.

Thank you, Mr. Chairman.

Mr. NICHOLS. Thank you, Mr. Mitchell.

Before we proceed, Mr. McKenzie, I would like to welcome our newest member of the committee, Hon. Earl Hutto, from the State of Florida. Mr. Hutto took Congressman Bob Sikes' place. He was a strong supporter of the military, including military medicine.

I want you to know, Earl, we are delighted to have you on our subcommittee.

Mr. HUTTO. Thank you very much, Mr. Chairman.

I am looking forward to working with you and the members of the committee.

Mr. NICHOLS. Secretary McKenzie, you may proceed, sir.

STATEMENT OF VERNON McKENZIE, PRINCIPAL DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR HEALTH AFFAIRS

Mr. McKENZIE. Thank you, Mr. Chairman.

I would like to thank you for the generous comments you made in your opening statement regarding my involvement in this common venture that we have had for the last couple of years in trying to get a military physician pay bill through the legislative process.

I appreciate the opportunity of appearing before you today to discuss various aspects of special pays for military health professionals.

As you know, our most urgent problem is the shortage of military physicians.

Many efforts have been, and continue to be, made to alleviate the shortage of military physicians. These efforts include the current variable incentive pay, the Armed Forces health professions scholarship program, construction of new facilities and malpractice legislation.

While the foregoing actions have had some value in reducing the scope of the physician shortage problem, we have concluded that a long-term legislative solution is necessary if we are to finally overcome the shortage problem. This involves revising the special pays program for military physicians in order to narrow the gap between their income levels and that of their civilian contemporaries in private or group practice and provide long-term stability for the program.

H.R. 6966, the bill now before this subcommittee, increases and makes permanent the amounts of special pay for military physicians and makes permanent the current special pays for dentists, optometrists, and veterinarians of the uniformed services and physicians of the commissioned corps of the Public Health Services.

The bill contains provisions for four types of special pay for military physicians. The first three types are: variable special pay which ranges from \$1,200 to \$10,000 annually; board certified pay which ranges from \$2,000 to \$5,000 annually; and additional special pay of \$9,000 to \$10,000 annually. All of the foregoing are based on length of service except for military physicians in pay grade O-7 or above who are limited to \$1,000 variable special pay plus any other pays for which they would be otherwise eligible.

The fourth type of special pay for military physicians is incentive special pay which cannot exceed \$8,000 and may be paid in a lump sum. There is a spending limitation for this type of pay of 6 percent of the total amount spent on physician special pays.

While the Department of Defense would have preferred passage of the administration's proposal—H.R. 4076—we believe that the situation has become so critical with regard to physician staffing that we now fully support the enactment of those portions of H.R. 6966 that pertain to military physicians, dentists, veterinarians, and optometrists. We defer to the Department of Health, Education, and

Welfare on those portions of the bill that pertain to members of the commissioned corps of the Public Health Service.

That concludes my statement. I will be pleased to answer any questions you may have regarding these subjects or any other aspects of our medical operations.

Mr. NICHOLS. I just have two questions at this time, Mr. Secretary.

You have been in touch with OMB on this matter, I am sure, from the time it was vetoed. You discussed it. Can you tell us what the administration's position would be with regard to changing the amount of special pay of physicians in the commissioned corps of Public Health Service?

What I am asking is: Are they adamantly opposed to that?

Mr. McKENZIE. Mr. Chairman, as you indicated in your question, I have been in constant, almost hourly communication with OMB ever since the President's veto action occurred. The answer to your question is "yes". There would be no question in my mind on this point. We would end up with a second veto if that kind of an adjustment were to be made to the bill.

Mr. NICHOLS. Let me ask you the same question with regard to changing the amount of special pays for military dentists, optometrists, and podiatrists?

Mr. McKENZIE. The answer to that question, also, Mr. Chairman would be a second veto.

Mr. NICHOLS. Mr. Mitchell.

Mr. MITCHELL. Thank you, Mr. Chairman.

In other words, the bill that we have before us is about the most we can possibly expect from this administration?

Mr. McKENZIE. That is correct, Mr. Mitchell.

Mr. MITCHELL. Would you predict, Mr. Secretary, for us, the impact on the other health services that are in short supply and who are having retention problems? What do you think they are going to do? What will be the effect of those health practitioners when we just pass this one portion of this important bill?

Mr. McKENZIE. It is quite clear to me, Mr. Mitchell, that the morale of the members of the other health professions who were included in the original congressionally passed bill, but who are excluded from any increased amounts of special pay under H.R. 6966, would be adversely impacted.

Mr. MITCHELL. Do you think there is any hope next year, Mr. Secretary, to pass phase 2, if the budgetary constraints are more relaxed? Do you think there is a possibility we can include the other health practitioners next year?

Mr. McKENZIE. I think that is a possibility, Mr. Mitchell. But as you know, some of the players may change in the interim. The most I can say is that it is a possibility.

Mr. MITCHELL. You think the greater change in players the more likely of passage of phase 2 of this bill?

Mr. DAVIS. Don, we hope you get reelected.

Mr. MITCHELL. I have no further questions.

Mr. MAVROULES. If I may pursue that line of interrogation here. What does the administration have to say about the impact of short-falls on the other parts of the military? What guarantee do we have that the existing incentives are strong enough to hold on to the people

that we have, the quality people, as I have heard them referred to in some of the other committee meetings. The subcommittee tried to put through a bill that we felt would address the issue head on. This is only a patchwork, at least in my opinion.

I congratulate those who put it together, perhaps that is how we can get it through. Do you think we have addressed the problem head on? Your personal view?

Mr. McKENZIE. Insofar as the physician provisions of the present bill are concerned, that is likely to achieve the intended result. As I indicated a few moments ago in responding to Mr. Mitchell's question, there is a sense of keen disappointment on the part of the other health professionals who were covered by the original bill, and who would make no gains under the present bill.

Certainly, they would regard the present bill as not providing any additional incentives for them to remain on active duty.

Mr. MITCHELL. Will the gentleman yield?

Mr. MAVROULES. Of course.

Mr. MITCHELL. Mr. Secretary, you haven't had an opportunity, I suppose, to quantify that disappointment enough to let us know how many people will get out now that would not have before? How many millions of dollars are going to be spent to attract new people to the other health professions?

Mr. McKENZIE. No, we have not so far. All we have is anecdotal information. We get reports from commanders of hospitals that X, Y, and Z, numbers of their professional staff are planning to leave this summer.

Mr. MAVROULES. If I may proceed, Mr. Chairman. The reason I ask is because in the posture hearings, we had all the heads of the military departments fighting for their budgets, continually saying it is the quality person, the experienced person, that we are losing. If we are not coming forth with a total program for the others, and we know we are going to have a reduction, what initiatives do we have from the administration to take care of this problem? Do we have any initiatives at this point?

Mr. McKENZIE. I can —

Mr. MAVROULES. Assuming of course, the numbers will be decreasing sharply.

Mr. McKENZIE. I am not involved in developing incentive programs for any categories of personnel other than health professionals, so if your question is a broad one, extending beyond those groups, I am sorry, sir, I can't respond.

Mr. MAVROULES. Thank you.

Mr. NICHOLS. Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman.

Mr. Secretary, I want to ask one question that relates to the final variable special pay, which is \$1,000 for anybody O-7 or above. You have a dramatic drop in this category, not based on talent or anything else. It almost seems like a penalty. A physician reaches the top of the profession, the top of the ranks in the military. He gets taken out of his labor of love, which is practicing medicine, and becomes to a degree an administrator in one of the hospitals, maybe such as Walter Reed or Bethesda. He is highly responsible yet you are restricting his income.

You are saying, "If you want to become a colonel in the Medical Corps, stay through that rank, but if you go to general you are going to be penalized."

I am wondering why did you decide on such a dramatic drop from \$5,000 down to \$1,000 for O-7's, and leave it there when especially there are fewer O-7's in the military branch than anywhere else, except in the JAG Corps.

Mr. McKENZIE. This goes back, Mr. Davis, to a decision we made roughly 10 years ago to depart from the classic military compensation concept of all elements of pay going upward as grade went upward.

Our problem then was with respect to physicians; physicians in civilian life tend to peak at a much earlier point in time from an earnings standpoint than the military compensation structure is adjusted to.

Or put another way, about 5 years into practice is when a physician on the outside, the average physician's income would peak—not 20 years later, or 25 years later as it would under the military pay system.

We found that we were far more competitive from the standpoint of comparing military physician pay with civilian physician income at the upper levels. The greater disparity was for the youngesters, those in their second, third, fourth, fifth, sixth, seventh year. So, in order to live within a prescribed number of dollars we decided to make a change in the classic approach insofar as medical special pays were concerned and to give the largest sums to the young physicians and smaller sums to the older physicians. We were able to do this so the total compensation remained in the classic mode.

In other words, total compensation continues to rise for physicians as their grade goes up, although you can pick a given element of their compensation and find that is going down. But no one suffers any decreases in pay in the Medical Corps as his grade increases.

Mr. DAVIS. Thank you.

Mr. COURTER. Mr. Chairman, I have a couple of questions, if I may.

Mr. Secretary, what is the cost—

Mr. NICHOLS. Excuse me, just a minute. I believe Mr. Emery is next.

Mr. EMERY. I will yield to the gentleman.

Mr. COURTER. What is the differential in cost in this legislation compared to the legislation heretofore?

Mr. McKENZIE. I am sorry that I can't answer that question off-hand. I would be happy to provide it for the record. There is a substantial difference.

Mr. NICHOLS. Would the gentleman yield?

Mr. COURTER. I yield.

Mr. NICHOLS. I believe we gave a chart to each member here: "Cost of health professionals pay bill." Do you find it?

The top line is the present cost of H.R. 6966. You will note in 1980 that cost is \$13.3 million. In 1981 it is \$26.2 million. And it goes on to \$50 million additional in 1984. The bottom line is the original bill, total cost of H.R. 5235, which would have been \$18 million for the 1980 year, and 1981 would have been \$40.8 million.

I say to the gentlemen, I do not consider either of these amounts to be budget busting. And you really are only dropping, if you will note

the net cost of other health professionals, \$3.6 million in 1980 and \$7.6 million in 1981. I hope that responds to your question.

Mr. COURTER. I thank the chairman for pointing that out. I had not seen the chart. If I could go on.

Mr. Secretary, you made the statement that you feel that the proposal provided in this bill, is adequate for the needs to do the job. What is that opinion based on? What type of studies did you look at to make that conclusion?

Mr. McKENZIE. It is based on a survey we made of active duty Medical Corps officers last year.

Mr. COURTER. You indicate that this particular proposal excludes dentists, podiatrists, and optometrists, is that correct?

Mr. McKENZIE. Not precisely. What it does is remove those professions from the additional pays that were provided by the earlier congressionally passed bill. But as a substitute for that it extends without any expiration date the existing legislative authority under which those professions receive special pays.

Mr. COURTER. Going back to my question with regard to what studies you conducted, you indicated one was performed last year. What was the manner in which those studies were done? Were they based on interviews of people about to leave?

Mr. McKENZIE. No, they were written questionnaires handled by mail.

Mr. COURTER. How many questionnaires were sent out? How authoritative was the study? How in depth was it? You put a lot of credence in it, obviously.

Mr. McKENZIE. It was a very extensive mailing. Again, I would have to provide the specific numbers for the record. The results of the questionnaire were very carefully analyzed by our staff and very carefully considered as we developed positions on various legislative proposals.

Mr. COURTER. It was a study by mail?

Mr. McKENZIE. Yes.

Mr. COURTER. To whom were the questions propounded?

Mr. McKENZIE. To active duty Medical Corps officers.

Mr. COURTER. What percentage?

Mr. McKENZIE. I can't answer that offhand.

Mr. COURTER. I have no further questions, Mr. Chairman.

Mr. NICHOLS. Mr. Mollohan.

Mr. MOLLOHAN. Mr. McKenzie, there are just a multitude of questions that arise in my mind after the committee has spent 2½ to 3 years with your very diligent and most helpful cooperation on this question, trying to resolve it and, in some measure, trying to make a contribution to easing the problem, because there may not be a positive resolution to it.

Certainly, what we are getting ready to do here today is not a very long stride toward resolving the problem. I think you would be the first to suggest that that is a modest statement.

You mentioned morale a while ago. I was at the dentist, at Bethesda this morning, and I can assure you the morale there is not high. I went from there over to the eye clinic where I had an eye appointment. Dr. Freedman, who is a specialist in surgery of the retina, is

leaving the service after 12 years. The dentist says one of the big reasons that he is leaving is the lack of support in the field of dentistry. He says there are 25 positions in the area in which he works, and there are only 7 of them filled.

I mention this to you only in the broad sense of this being part of the problems this committee has been trying to grope with a piece at a time for the last 2½ to 3 years. We are resolving ourselves here now, to a large degree, to just falling back from our position that we arrived at after a careful study of 2½ or 3 years. It seems to me that the committee's work has gone for what you might say relatively naught.

There are some very modest changes that we can make here, I think that they should be made, they might in some way contribute to easing of the shock, or of the blow, or of the disappointment, whatever you might care to categorize the reaction as being.

I know that we make references here to continuation pay. We make reference to permanent pay. I realize that up until just very recently the continuation pay was not available to dentists until, I believe, after 5 years of service. But now, it is available to them at the end of 3 years, is that correct?

Mr. McKENZIE. That is correct, Mr. Mollohan.

Mr. MOLLOHAN. Our new bill makes no reference to that at all. I am not unmindful of the fact that the Defense Department has established that as a policy, but would you, or would the Defense Department, or would OMB—who seems to rule everything anymore—would you see any objection on the part of the Defense Department or OMV if we authorize the continuation pay as an entitlement and establish the criteria as being at the expiration of 3 years, rather than 5—establish this as a part of this bill.

Do you see any objection to this approach which I look upon as being relatively modest, noncontroversial, something that all of us want to do?

Because you and I both realize, as does everybody in this room that is a student at all of health professional service in the military forces, we are not fulfilling our commitment for dental services, for medical services, for optometry services, that we promised our servicemen for years—not the quality nor the kind nor the availability. We are not doing that. We don't have that capability because we don't have the numbers, either in health professionals themselves—the medical doctors, dentists, veterinarians, optometrists—or in the facilities.

We don't have the support personnel for them. This is not something we are trying to correct currently.

Can you see any objection to doing these two or three things I suggested here in this bill?

Mr. McKENZIE. Yes, Mr. Mollohan, I do.

I am advised that any change in the present bill which would grant absolute entitlement to dentists of the continuation pay that now is merely authorized would result in OMB recommending to the President that the bill be vetoed.

Mr. MOLLOHAN. My understanding was the distinction between the words "entitlement" and "permanent" on the part of OMB was marginal, and while they prefer the language of permanence they didn't register any objection to the other.

There may be something more current than the information I had available. How firm is your information? Try to translate it if you can when you give it to us; exactly the language by which you received that message?

Mr. McKENZIE. In anticipation of this issue possibly arising during these hearings this afternoon, I last discussed this matter with an official of OMB at approximately 12:30. And as I indicated, I received a clear-cut indication that adjustments of the kind that you have mentioned would result in a recommendation for a veto.

Mr. MOLLOHAN. The current regulations are just about as permanent as the Secretary of Defense wants them to be. The regulations are about as permanent as that civilian who may be the Director of OMB wants them to be, or as the President of the United States, whomever he is wants them to be. There is nothing here for health professionals, people vitally important to the kind of military we are trying to structure. There is nothing here to guarantee them anything.

Mr. McKENZIE. There is under the existing legislation certainly wide administrative latitude for the Secretary to determine the details of how the program will be implemented.

Mr. NICHOLS. Let's take a break and answer the rollcall. There will probably be an amendment.

We will return as soon as we can.

[Recess taken from 2:36 p.m. to 2:58 p.m.]

Mr. NICHOLS. The subcommittee will come to order.

Mr. Mollohan.

Mr. MOLLOHAN. Mr. McKenzie, at the time of the recess you and I were discussing the "instructions," for want of a better word, that you had received from OMB as to what was acceptable and what was not, and what the President would veto and what he would not veto. At that point in time I was making particular reference to making continuation pay an entitlement after 3 years of service. As we both know the Defense Department has, today, made continuation pay available at this point. What was the OMB's objection to the use of the word "entitlement" instead of "authority," just as it is at the moment?

Mr. McKENZIE. The objection as I understood it, Mr. Mollohan, had to do with the fact that at some point in the future the Dental Corps situation might be markedly improved over what it is now. So that it might be possible to maintain the required strengths with some lesser form of extra pay than is now being authorized. And that we would be locked in if we—

Mr. MOLLOHAN. Inasmuch as we are taking out the expiration date anyway in the bill, the continuation pay is going on ad infinitum, without termination. What could the problem be?

Mr. McKENZIE. Well, as I understand what we are talking about, Mr. Mollohan, under the present situation as you pointed out, the Secretary of Defense has what amounts to discretionary authority to pay or not pay continuation pay to dental officers. He can pay it in a lesser amount than the authorized maximum, if he so desires.

As you may recall, it has only been in the past 6 or 7 years that the Secretaries have chosen to exercise that discretionary authority, and to authorize or to pay continuation pay to dentists at all. The first 5 or

6 years continuation pay was authorized for dental officers, but was not paid to them.

Mr. MOLLOHAN. I don't think you need to be reminded that during these last 6 or 7 years we have seen a radical deterioration in the number of our health professionals and in the services that are being provided to the people in the field. Clinic after clinic has been closed as you know.

Mr. McKENZIE. I believe it is OMB's contention that the present language of the law provides sufficient latitude to be able to adjust to marked fluctuations in our Dental Corps situation and that they prefer to have that latitude.

Mr. MOLLOHAN. I am a little bit, I think the right word is, "astonished." I am astonished there should be such a radical hardening of OMB's attitude here between the time of your conversation at 12:30 today and a previous recent conversation which they had with one of the important members of the House Armed Services Committee. That conversation, the results of that conversation were passed back to me verbatim, in large part. The information was that they would prefer using the word "permanent" rather than "entitlement."

Mr. McKENZIE. There is no disagreement, Mr. Mollohan, now about making the existing statutory authority permanent. I believe what we were talking about was changing it to an absolute entitlement or requirement to pay.

Mr. MOLLOHAN. That is exactly what we are talking about. That is exactly what I think ought to happen here. We ought to do something. This committee after spending 2½ years or 3 years of very arduous study and review, after listening to the Surgeons General of all the services, after listening to you time after time and others of like character, after having conversations and formal hearings with the younger members of the health professionals, the 1- and 2-year men, came up with a bill. The bill is for all practical purposes scorned. It isn't even looked at seriously.

What we come back to is that you either do this, or the whole thing is out the window. To do so very little means to accept one of two things: either a conscious or an unconscious movement toward a draft. That is exactly what we are talking about. You know it better than I do, because you are more scholarly in this field than I.

Mr. NICHOLS. Mr. Hutto.

Mr. HUTTO. Thank you, Mr. Chairman.

Being a new member I have some catching up to do. Looking over the factsheet, Mr. Secretary, I am trying to figure out the rationale behind the structure of the additional pay for military physicians. The variable special pay, I note, escalates up to year 8, and then from 8 on up it seems to come down. I have tried to find, in the other areas, where additional pay might fill in for those who have many years of experience. Would you enlighten me on that?

Mr. McKENZIE. Yes. This goes back to something I touched on a little earlier, having to do with the fact that health professionals, physicians in particular, who are in private practice reach their peak earnings generally after 5 or 6 years; whereas a military officer's income doesn't peak until about 25 years after he enters on active service.

So that we were not competitive in relation to younger physicians. So in order to overcome that situation we took the bulk of the money that we were then proposing to use in a new special pay program and gave it to young physicians and tapered off the amount of this extra pay that they were getting as they went up in grade.

No one, however, suffers any loss in total military compensation. The total compensation, as opposed to this one out of five or six segments of it, continues to rise. There is no pay loss involved.

Mr. HUTTO. Can you tell me the average length of the stay in service of a physician?

Mr. McKENZIE. Well, the vast majority of our physicians only remain for relatively brief periods until they complete their obligated service, 3, 4, perhaps 5 years. Only about 27 to 28 percent of the physicians who enter on active duty continue beyond the first period of obligated service and become a true career officer.

Mr. HUTTO. Of those who go beyond their obligated service, do you have a problem keeping them after a few years, or if they get over that first period of obligation and continue, do they generally stay?

Mr. McKENZIE. Generally, they will stay if they go beyond the first period of obligated service until they complete the minimum required for retirement benefits, 20 years.

Mr. HUTTO. Thank you, sir.

Thank you, Mr. Chairman.

Mr. NICHOLS. Mrs. Byron.

Mrs. BYRON. I would like to differ a little bit with you on that last statement. I think if we don't do something in the pay bill for the nonobligated physician, we will lose the midcareer physician after the 10- to 12-year period. I think that is one of the reasons this committee worked as hard as it has to try to compensate those individuals.

Let me touch on one area Mr. Molloyhan touched on. That is the concern of many people that we may be heading back toward a doctor draft, unless we are going to be able to turn the retention situation around.

You and I have discussed the veterinary officers, especially those in research and development, and there was some word in that community that there would be a possibility that veterinary officers would be required to stay in the service for a specific period. Do you have any further thoughts on that?

Mr. McKENZIE. Our office has no plans for imposing a freeze on veterinary corps officers who desire to leave the service after completing periods of obligated service. I know of no plan on the part of the Army or Air Force to take any such action.

Mrs. BYRON. By the same token, you feel we are not moving back toward a doctor draft, with the statistics that you have to deal with on a current basis?

Mr. McKENZIE. That is correct. And I am particularly hopeful that with the enactment of this or similar legislation we will be able to climb back to the physician strengths we feel we need.

Mrs. BYRON. No further questions.

Mr. NICHOLS. Mr. Wyatt.

Mr. WYATT. No questions, Mr. Chairman.

Mr. NICHOLS. Mr. Leach.

Mr. LEACH. No questions.

Mr. NICHOLS. Mr. Mitchell.

Mr. MITCHELL. I have nothing further.

Mr. NICHOLS. Thank you, Mr. McKenzie, we appreciate you very much.

Mr. McKENZIE. Thank you, Mr. Chairman.

Mr. NICHOLS. Just a minute.

Mr. MOLLOHAN. Mr. McKenzie, if we change this language and use the word "entitlement," what would be the additional cost?

Mr. McKENZIE. It would depend on how, technically, you did it. If you didn't put a floor in, then it would depend, it could be a considerable increase. Because then we would be paying the maximum amount presumably—

Mr. MOLLOHAN. If we deprive the military of discretion in the amounts of the pay, is that what you are saying?

Mr. McKENZIE. If you merely changed the language so that we wouldn't have any administrative latitude in making adjustments and, in effect, froze into statutory language what our administrative practice is now, there would be no additional cost.

Mr. MOLLOHAN. That is all I wanted.

Thank you.

Mr. NICHOLS. Just 1 minute, Mr. Secretary, if you don't mind. Anticipating there may be amendments of the nature Mr. Mollohan suggested, let me repeat the question again to you. An amendment to change the language to make these present bonuses "entitlements," you have discussed this with OMB?

Mr. McKENZIE. Yes, Mr. Chairman.

Mr. NICHOLS. In the event the committee should see fit to do this, and it were passed eventually by the Congress, are you assured in your own mind that a veto would result?

Mr. McKENZIE. The best I can say, Mr. Chairman, is it was made abundantly clear to me during my discussions with an official of OMB earlier today that an amendment along the lines we have just discussed would result in that agency recommending to the President the bill be vetoed.

Mr. NICHOLS. Thank you very much.

Mr. Mitchell.

Mr. MITCHELL. I am confused about what Mr. Mollohan was discussing, Mr. Secretary. I was informed by people that were quite knowledgeable, I think, that the Federal Government has been paying this discretionary bonus for some 12 years now. If we went along with Mr. Mollohan's amendment, no one would get any more money than they do now, and it would not cost the Federal Government anything at all; is that true?

Mr. McKENZIE. That is true. But notwithstanding that, OMB objects to losing the latitude that we have to adjust from time to time as we have in the past to a particular dental Corps situation.

Mr. MITCHELL. In other words, if Mr. Mollohan's amendment were to succeed, there would be no additional cost to the Federal Government unless in the future they decided to take advantage of their discretionary option and decrease the funding?

Mr. McKENZIE. Well, under what we are talking about, that option wouldn't exist. To put it another way, there would be no increased

costs to the Government if the amendment were not made and we didn't make any change administratively. But one could never say precisely, because no one would know if we got this kind of language whether we would at any point have ever administratively made a change had the latitude still existed.

Mr. MITCHELL. But if the latitude did exist in the future, sometime the Government could theoretically decrease the amount of money that they are paying now?

Mr. McKENZIE. Or with respect to continuation pay, withdraw it entirely.

Mr. MOLLOHAN. Wait a minute, say that once more.

Mr. McKENZIE. Under existing statutory language the payment of continuation pay to Dental Corps officers is discretionary with the Secretary. And for the first 5 or 6 years the law existed the Secretary chose not to pay it. He could in the future, if he so desired, under the existing language, either reduce the amount or withdraw it entirely.

Mr. MOLLOHAN. Regardless of the fact we have taken out the date of termination of the program?

Mr. McKENZIE. That is correct, Mr. Mollohan.

Mr. NICHOLS. Mr. Secretary, am I correct, then, that we have paid these bonuses consistently now for 12 years?

Mr. McKENZIE. No, Mr. Chairman. The first 4 or 5 years that the law was on the books we did not pay it to dental officers. We did to medical officers. It was during Secretary Laird's tenure, that the decision was made to start paying it. Since then we have made it a more attractive program. We have never administratively made a change that made it less attractive.

Mr. NICHOLS. How many years does that go back to?

Mr. McKENZIE. About 12 years, that the authority has existed, and 6 or 7 years we have actually exercised it.

Mr. NICHOLS. Do you know of any plans or any thought that is being given toward terminating this bonus?

Mr. McKENZIE. No, Mr. Chairman, I do not.

Mr. MITCHELL. Do all the dentists eligible for discretionary funds under our program receive the maximum entitlement?

Mr. McKENZIE. No, Mr. Mitchell, they do not.

Mr. MITCHELL. If we passed this amendment, would they all receive the maximum entitlement then?

Mr. McKENZIE. Depending on, technically, how you worded it, you could word it to have that effect if you so desired.

Mr. MITCHELL. What would that cost if we did that?

Mr. McKENZIE. That is difficult to say.

Mr. MITCHELL. A ballpark figure?

Mr. McKENZIE. I would guess \$3 million to \$5 million annually.

Mr. DAVIS. Mr. Secretary, let me ask you one thing. How much impact does the fact that OMB might decide these discretionary payments are not necessary have on the Secretary of Defense as to whether or not he pays them? Does he listen to his military advisers or the "Office of Meddling and Bungling"?

Mr. McKENZIE. Technically, the way this particular statute is worded, it is entirely within the discretionary authority of the Secretary. The present variable incentive pay is differently worded, and

under that language we have to obtain the President's approval to change the regulations that deal with that form of pay, which means that the Office of Management and Budget does have an opportunity to make its views known to the President before he acts.

Mr. DAVIS. Mr. Mollohan's amendment would prevent all that interference in the Department of Defense?

Mr. McKENZIE. The portion of the special pay laws that we are referring to now; namely, continuation pay, doesn't require that the regulations to be issued by the Secretary have to have any higher approval.

Mr. DAVIS. By the same token OMB is the one in the woodpile here to prevent this legislation from going forward. How much attention is the Department of Defense going to pay to OMB's recommendation that the DOD not pay it? I am asking a simple question, because you know up here we don't understand all the functions that you have going on downtown.

If OMB tells DOD let's stop this in 3 years, what would DOD do?

Mr. McKENZIE. I—

Mr. DAVIS. Your opinion, your personal opinion?

Mr. McKENZIE. Obviously, it would depend on who the Secretary was at that time.

Mr. DAVIS. Let's talk about the present one and hope they get re-elected—I am a Democrat.

Mr. McKENZIE. First of all, OMB has never in any way intervened with the Department of Defense on how we implemented—

Mr. DAVIS. But they are fighting legislation. What is going to be the impact on the administration of this legislation? I just want to know—if they can tell you over there how to write a bill and how to come up here and testify on it—what is the impact on your decision-making process when it gets to implementing the bill—plain and simple?

Mr. McKENZIE. Well, of course, OMB—

Mr. DAVIS. The bush is not that big to beat around.

Mr. McKENZIE. OMB would always have the option of going to the President and trying to persuade him to direct the Secretary to implement a law in a particular fashion. The extent to which OMB would attempt to influence the President in that regard and how successful they would be, is so speculative that I hesitate—

Mr. DAVIS. If we made an entitlement, that would resolve the problem, wouldn't it?

Mr. McKENZIE. That would resolve the problem.

Mr. DAVIS. Thank you.

Mr. NICHOLS. Any other questions of Secretary McKenzie?

Thank you, Mr. Secretary.

Mr. McKENZIE. Thank you, Mr. Chairman.

Mr. NICHOLS. I believe it is the appropriate time, Mr. Davis, to charge the jury, if I might use a little legal language here.

Let me just say this to the committee: I am as perturbed about the veto as the next one. I regret very much that the President saw fit to veto this bill. We are talking about peanuts, just literally crumbs off the table—very little money. Ninety percent of the moneys in this bill went for military physicians.

I am extremely disappointed. Having said that, I must remind the committee we have been all year on this bill. I think it is extremely important that we send a message to the military physicians that we are ready to pass our legislation here. A companion bill, verbatim to the bill we are talking about here today, has been introduced in the Senate.

I would like very much to get this bill before the full committee tomorrow. With regard to the entitlements issue, let me say that the suggestion was first brought to my attention by the gentleman from West Virginia. I discussed the matter with Dr. White at OMB. His original response was he saw no objection to including this language in the bill, but that he wanted to call me back. He called me back the following day, and I believe I am correct in saying that he said OMB would prefer—which is a rather mild term as Mr. Mollohan brought out—that the entitlement feature not be included in the bill. He did not tell me that they would specifically veto the bill if that language was in there. But the hour is late, and if you want to come back with another bill at some later time as Mr. Mitchell suggested, well and good. I will support it. I just think we need to move.

We need to move expediently on this legislation. I will certainly entertain any amendments that any committee members have at this time.

Mr. MOLLOHAN. I can't for the life of me understand why a matter of language such as this should cause so rapidly a hardening. It represents a radical change, really, of attitude on the part of OMB from the first indication to the chairman of its reaction and the second indication to the chairman of the reaction to the change. And then it is very arbitrary, if not arrogant in its declaration as recounted to us here by Mr. McKenzie this afternoon.

We would not change the administration position as provided in current regulations. There will be no dollar impact whatsoever according to the testimony of Mr. McKenzie. We could change the language and go for the maximum in continuation pay as propounded by Mr. Mitchell in the questions to Mr. McKenzie, and that was an estimated \$3 to \$5 million.

Everybody on this committee has had 2½ years of being pounded by the deteriorating situation and the inability of the military health professions to discharge their responsibilities and commitments to the armed services and armed services dependents.

As I said earlier, just this morning, I was out at the naval hospital and they told me in one section out there they had 25 authorized spots but they can only fill 7.

I can't conceive of there being any objection, any justifiable objection on the part of anyone to making continuation pay an entitlement.

Mr. Chairman, I move that the staff make such changes as deemed necessary to effect this program as an entitlement program.

Mr. NICHOLS. Is there a discussion on the amendment?

Mr. Mitchell.

Mr. MITCHELL. As I understand it, Mr. Chairman, we are talking about three separate issues. We already in our bill removed the expiration date of special pays for all the professions; we make permanent special pay, is that correct?

Mr. EMMERICH. That is correct.

Mr. MITCHELL. Mr. Mollohan, you are talking about dentists and making the discretionary pay an entitlement. You want, with your amendment, to provide the people who are now receiving discretionary payment the same amount every year as entitlement, so there wouldn't be any flexibility. The same people who get the payments now will get the same amount in the future.

Mr. MOLLOHAN. It would not be subject to the discretion of officials in the Defense Department. There would be no discretion in an administrative sense to establish a different payment under one condition and a different one under another condition.

Mr. MITCHELL. If we make it an entitlement, your amendment is to establish entitlement those payments that dentists are receiving as discretionary payments now. It wouldn't cost the Government any money, the same people would get the same amount. But they could count on it from year to year.

Mr. MOLLOHAN. That is exactly the thrust of the argument.

Mr. MITCHELL. But if dentists are entitled to receive the maximum amount they could under the law, it would cost \$20 million more. You have to be very clear on the amendment.

Mr. MOLLOHAN. That is the staff amending my amendment. It is a little bit unusual.

Mr. MITCHELL. What I am saying is if all the dentists who are eligible to receive discretionary amounts today, received the maximum authorized payment, it would cost \$20 million more roughly. I want to make clear your amendment simply makes present discretionary payments entitlements to the people now receiving them, and there will be no additional cost to the Government.

Mr. MOLLOHAN. That is correct, according to Mr. McKenzie.

Mr. NICHOLS. Is there any other discussion?

Mrs. Byron.

Mrs. BYRON. If there would not be any increased cost then why has Mr. McKenzie stated so emphatically it will be vetoed?

Mr. MOLLOHAN. Because of what I labeled an arrogant attitude on the part of OMB. That is exactly what I think.

Mrs. BYRON. Are we drafting legislation or is OMB drafting legislation?

Mr. NICHOLS. If the lady will yield, if I might respond to that.

Mr. Mollohan has termed it "arrogant." That may be true. I don't quibble. I would make it adamant. But either way I would respond to the lady by saying it is my judgment they want the flexibility to pay or not to pay the bonus. They don't want the bill to make it permanent.

I am persuaded after talking to OMB a number of times the bill will be vetoed if that language is in there. I will have to oppose the amendment on that basis, and on that basis only. Not because I wouldn't like the amendment, Mr. Mollohan, but I don't want to go through another year and have the bill vetoed the second time.

Mr. MOLLOHAN. This does not change the program whatsoever. It changes nothing more than the title of the payment involved. This is very clear in my question and the response from Mr. McKenzie.

Mr. NICHOLS. Any other questions?

Mr. Hutto.

Mr. HUTTO. Mr. Mollohan, does making the payment an entitlement take this out of the appropriating process of the Congress? That is the concern I have.

Mr. EMMERICHs. Yes, it does. It has to be paid. The funds have to be appropriated.

Mr. MOLLOHAN. But, Mr. Hutto, keep in mind, there is no change in how and in what amounts these payments shall be made.

Mr. HUTTO. There has been a great deal of discussion, I know, during the year I have been here about entitlements, and about the legislative body, the Congress, losing its ability to control spending. That was the concern I had.

Mr. NICHOLS. Is there further discussion?

Mr. Wyatt.

Mr. WYATT. Mr. Chairman, during the discussion between Mr. Mitchell and Mr. Mollohan, I got somewhat confused. What modification would increase the total cost of the program \$20 million?

Mr. NICHOLS. Let me ask Mr. Emmerichs to answer.

Mr. EMMERICHs. Current law, presently authorizes the Secretary of Defense to pay up to 4 months' basic pay to a dentist to continue on for 1 year. He may pay up to 4 months; that is the discretionary part.

If the only change that were made were to say he shall pay 4 months' basic pay to all dental officers, then—and it is a rough ballpark estimate—I would say that would cost about \$20 million.

Mr. NICHOLS. Let me interrupt right here. Mr. Mollohan's amendment does not say they shall pay four months. They presently are paying 2 months in certain instances, and he wants to continue the way they do it now.

Mr. MOLLOHAN. Administratively exactly the same way. There is no change whatsoever in the method of paying it as far as the determination of the amount or criteria used in determining the amount.

Mr. WYATT. If they extend, what do they get?

Mr. MOLLOHAN. If they extend after 3 years of service, the Secretary may give them anywhere from 1 to 4 months' additional pay as continuation pay.

Mr. WYATT. He may give them 1 year.

Mr. MOLLOHAN. He could. That is right.

Mr. WYATT. What is it currently?

Mr. EMMERICHs. Continuation pay is restricted to officers with over 3 years of service. They get 4 months' basic pay as long as they are not in two categories. If they are in residency training they only get 2 months' basic pay. If they are general dental officers with over 20 years of service, they only get 2 months of basic pay as a bonus.

Mr. MOLLOHAN. There is nothing in my amendment that changes that.

Mr. DAVIS. That is very easy to solve without all of this rhetoric it seems to me.

I believe Mr. Mollohan asked that the staff structure the amendment so it will be properly drawn. So say the entitlement shall be the same as those payments provided on April 1, 1980.

Mr. MOLLOHAN. The gentleman is correct.

Mr. DAVIS. That solves it very easily. It is exactly what they are being paid right now.

Mr. WYATT. What they are paying right now?

Mr. DAVIS. Yes.

Mr. EMMERICH. If they are in residency training or a general dental officer with over 20 years service, they get only 2 months. All other dental officers with over 3 years of service get a payment of 4 months basic pay if they agree to stay on for another year. If the entitlement was 4 months basic pay for everyone, that would cost \$20 million.

Mr. WYATT. Which means those dentist in residency and those over 20 years of service.

Mr. EMMERICH. Particularly those with less than 3 years of service. That is what drives the cost up.

To be clear, the amendment that is being offered is simply to take current policy and transform that into legislative language. That would, obviously, not cost any additional dollars.

Mr. DAVIS. Mr. Chairman, I would move to amend Mr. Mollohan's amendment to state the payments shall be the same as those paid in 1980.

Mr. MOLLOHAN. I accept the amendment.

Mr. EMMERICH. Is that to imply that the legislation under your amendment, Mr. Davis, would be dollars specified in law for each individual in current circumstances? Currently it is applied to basic pay. Do you want to tie it to basic pay as it increases in the future, or do you want to tie it to basic pay that is in effect today?

Mr. DAVIS. I believe right now we better tie it to basic pay today.

Mr. MOLLOHAN. Would it not be appropriate to tie it to that basic pay which would be in effect at the time of the action?

Mr. DAVIS. I believe you can get away from tying it to basic pay by stating what the general policy is and writing that into law. You don't have to tie it to the dollar amount. Therefore, you can continue on down the road at 2 months for those in residency and 2 months for general dental officers over 20, and 4 months for the others.

Mr. WYATT. Will the gentleman yield?

Mr. NICHOLS. You have the floor, Mr. Wyatt. I recognize you.

Mr. WYATT. If you tie it to what the basic pay is now, you might as well put the dollar amounts in, because you know what the dollar amount is. If you tie it to basic pay generally and say 2 or 4 months' basic pay, you allow escalation to take effect; as the basic pay goes up, the amount they are entitled to would go up.

Mr. EMMERICH. That is right.

Mr. DAVIS. So you don't have a guy coming in 10 years down the road getting paid on today's scales. We should tie it to the description of the policy, 2 months' basic pay, or 4 months.

Mr. WYATT. Not 2 months of basic pay as of 1980.

Mr. DAVIS. That is right.

Mr. MOLLOHAN. I accepted the policy. With reference to basic pay you would want to tie it to the basic pay existing at the time of the action.

Mr. MITCHELL. Mr. Chairman.

Mr. NICHOLS. Mr. Mitchell.

Mr. MITCHELL. How do our other entitlements go, are they tied to basic pay or are they fixed amounts in the law?

Mr. DAVIS. Fixed amounts.

Mr. MITCHELL. Do all other professions receive this?

Mr. MOLLOHAN. This has always been a percentage of the salary base of the individual affected. I think the only way you can make it fair would be to apply the policy to that salary base which exists at the time of the agreement to serve.

Mr. MITCHELL. I am inclined to agree. It apparently will not cost any more than it would otherwise. If it were a discretionary amount the dentists would receive a number of months based on base pay. It seems like the only objection to it in my mind is the question of the veto. I think I am going to gamble and support the Mollohan amendment as modified by Mr. Davis.

Mr. NICHOLS. Let's be sure we understand this.

Mr. EMMERICHs. I will repeat it for the record.

It would be to take current policy as it presently exists in the Department of Defense, and that is to pay special continuation pay to dental officers with over 3 years of service 4 months' basic pay, except in two circumstances. One is that it would only be 3 months' basic pay when they are in residency training and it would only be 2 months' basic pay if they are general dental officers with over 20 years of service. It would be tied to the basic pay in effect at the time that the agreement was entered into to stay on active duty for that individual for which the payment was offered.

Mr. NICHOLS. All right, gentlemen. You have heard the question. The Clerk will call the roll, please.

[Rollcall vote taken.]

Mr. EMMERICHs. Mr. Chairman, on this vote it is 8 ayes and 2 no's.

Mr. NICHOLS. Eight ayes and two no's, and the amendment is approved.

Are there other amendments?

If there are no other amendments, the Chair will entertain a motion to vote on final passage of H.R. 6966, as amended by the Mollohan amendment.

Mr. HUTTO. Mr. Chairman, I so move.

Mr. NICHOLS. Mr. Hutto has so moved.

All in favor?

Will the clerk call the roll.

[Rollcall vote taken.]

Mr. EMMERICHs. Mr. Chairman, there were 10 ayes, no nays.

Mr. NICHOLS. Ten ayes, and no nays.

The bill is passed.

The chairman will ask the staff to prepare a clean bill. It will be my intention to bring this to the attention of the full committee tomorrow.

As there is no other business, the committee will stand adjourned. [Whereupon, the subcommittee was adjourned at 3:41 p.m.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
MILITARY COMPENSATION SUBCOMMITTEE,
Washington, D.C., Thursday, June 19, 1980.

The subcommittee met, pursuant to notice, at 9:45 a.m., in room 2216, Rayburn House Office Building, Hon. Bill Nichols (chairman of the subcommittee) presiding.

Mr. NICHOLS. The subcommittee will come to order.

The primary purpose of the meeting today is to continue the markup of the fair benefits package.

First, I would like to observe that on Tuesday we asked for the appointment of conferees on H.R. 5168, the bill that contains the Nunn-Warner amendments, attached on the Senate side. The conferees on the House side are Mr. Price, myself, Mr. Mollohan, Mr. Aspin, Mr. Davis, Mr. Bob Wilson, Mr. Mitchell, and Mr. Emery. I am hopeful that the Senate conferees might be appointed within the next day or so and that we can go to conference on the Nunn-Warner amendments, hopefully, the first part of next week.

[NOTE.—Further discussion of this matter is contained in HASC No. 96-64.]

Mr. NICHOLS. The other item that I would like to take up before we get into the fair benefits package relates to the passage and enactment of the special pay bill for uniformed services health professionals. The bill is scheduled to come up under suspension of the rules next Monday, June 23. Unfortunately, the chairman cannot be here, and I have asked Mrs. Byron to handle the bill on the floor. Mr. Mitchell, of course, will provide able assistance. If we can get the bill to the President by the end of this month, the new pay system could be effective on July 1. I say "could be effective on July 1." This has a number of advantages, of course, the primary one being a shot in the arm for the morale of the military Medical Corps. In addition, although the budget ceiling has been revised, there is no telling when it will be reached. Recent action on the supplemental appropriation bill for fiscal year 1980 indicates that the door could be closed sooner than expected.

What I am suggesting this morning is that we consider an amendment to the health professionals bill that would reflect what would probably come out of conference were we to proceed to conference with the Senate.

We have discussed these proposals with Senator Nunn's staff, and he is in the process of discussing these proposals with the other members of his committee.

The House and Senate bills, of course, have three fundamental differences:

The first relates to military dentists. The House bill creates an "entitlement" to bonuses based on the current formula for calculating those bonuses as specified in regulations. The level of the bonus would

be increased each time active duty pay was increased in the future because they are tied to basic pay. The Senate bill, on the other hand, contains the current discretionary authority to pay up to 4 months, basic pay.

The second item of difference relates to the Public Health Service physicians. The House bill merely continues existing special pays. The Senate bill places the Public Health Service physicians under the same revised system as military physicians.

The third difference relates to the expiration date, which currently is September 30, 1980, for all special pays for health professionals. The House bill provides unexpiring authority for all special pays. The Senate bill, on the other hand, extends some special pays for 1 year, some for 3 years, and some are extended indefinitely.

The amendment that I would propose to bring up as a subcommittee amendment when the bill comes to the floor on Monday is this:

For military dentists, I would suggest that we provide the current levels of bonuses as an entitlement, with no discretionary ability to administratively modify these levels but to provide no future automatic adjustments to these levels. In other words, the cost-of-living would not be applied to the 2 months' or 4 months' basic pay. No adjustments, of course, are afforded for other special pays for health professionals. This suggestion was offered originally by the American Dental Association. I feel it's a good suggestion and one that's viable, and I would hope that the Senate would be in agreement with this.

The second provision of the amendment that we would offer on Monday relates to Public Health Service physicians. I would suggest that we continue the current levels of special pay, but in addition authorize a discretionary component of special pay of up to \$8,000. This would be limited to 6 percent of the total budget for special pays and, of course, it would be paid at the discretion of the Secretary of Health and Human Services. This suggestion was offered by OMB. So I would hope that it would fly when it got to the White House. We believe that the Senate will be agreeable to this.

The third provision relates to the expiration date. I would suggest in the amendment that we would provide for unexpiring authority for all special pays for health professionals.

Should the House pass the bill with these amendments, it is my hope that the Senate would then pass the bill with these identical amendments, thereby clearing the measure for the President without the necessity of a conference. It would expedite the passage of this badly needed bill, and, as I say, there is a very distinct possibility that it could become effective by July 1, in the event we get full cooperation from the Senate and from the President on this matter.

I believe it is important that we move on this bill as soon as possible, and I would hope that the subcommittee might approve this approach.

Mr. Mitchell, do you have any feeling on that?

Mr. MITCHELL. I would support the amendment that contains the three provisions. I would like to clarify somewhat the first provision about the military dentists.

As I understand it, they would be receiving the exact same amount of bonus as they receive this year through the years, regardless of how much their basic pay increases. Is that correct?

Mr. NICHOLS. I have discussed this in some detail with the staff. Let me ask Mr. Emmerichs to address that.

Mr. EMMERICHS. Currently in regulations dentists are paid according to certain criteria. They get 4 months' basic pay as a bonus normally. They get 2 months' basic pay, however, if they are in residency training or if they have over 20 years of service and have no specialty training. So they either get 4 months' or 2 months'.

In the amendment that's being proposed here that 4 months or 2 months would be applied to the pay table that is in effect today. So if he was a major today and 5 years from now he was a lieutenant colonel he would get the basic pay of a lieutenant colonel times 4 months' basic pay, although it would be tied to the pay scales that are in effect today, not to the pay scales that are in effect then.

Mr. MITCHELL. But the bonus would increase?

Mr. EMMERICHS. It would increase under this current pay scale but only as a result of promotion or longevity increases.

Mr. MITCHELL. As I understand it, the dentists are the only profession that would have an indexing provision to their bonus, and we're removing that indexing provision. That's the size of this amendment.

Mr. NICHOLS. Yes.

Mr. MITCHELL. And leaving the bonus just exactly what it would be based on the current pay scale?

Mr. NICHOLS. That is correct.

Mr. MITCHELL. Do we need some sort of an amendment to do that?

Mr. NICHOLS. It would be my intention, if there is no objection from the committee, to instruct the staff to draft an amendment and a letter to Chairman Price and to Mr. Bob Wilson to the effect that this would be our intention when the bill is brought up under suspension on Monday.

Mr. MITCHELL. I think that's a very good idea.

Mr. NICHOLS. Without objection, we'll proceed along these lines then.



